Portsmouth Charter Township
Zoning Ordinance

Effective July 1, 2026

Adopted June 15, 2026

Portsmouth Charter Township
1711 W. Cass Avenue Road
Bay City, MI 48708

portsmouthtownshipmi.gov

PORTSMOUTH CHARTER TOWNSHIP ZONING ORDINANCE

Portsmouth Charter Township, Bay County, MI

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PREPARED WITH THE ASSISTANCE OF:
Spicer Group, Inc.
Saginaw, MI
www.spicergroup.com

TABLE OF CONTENTS

CHAPTER ONE. TITLE, LEGAL BASIS, AND PURPOSE

Section 1.01 Title
Section 1.02 Legal Basis
Section 1.03 Purpose

CHAPTER TWO. GENERAL PROVISIONS

Section 2.01 Effect of Zoning
Section 2.02 Residential Accessory Buildings and Structures
Section 2.03 Buildings
Section 2.04 Condominiums
Section 2.05 Driveway Permits
Section 2.06 Dwellings
Section 2.07 Essential Public Services
Section 2.08 Fencing and Traffic Visibility
Section 2.09 Grading and Drainage
Section 2.10 Land Uses
Section 2.11 Lots and Parcels
Section 2.12 Outdoor Lighting
Section 2.13 Outdoor Storage
Section 2.14 Swimming Pools
Section 2.15 Keeping of Pets and Other Animals

CHAPTER THREE. NON-CONFORMITIES

Section 3.01 Non-Conforming Buildings, Structures, and Land
Section 3.02 Non-Conforming Structures
Section 3.03 Non-Conforming Uses of Land
Section 3.04 Non-Conforming Uses of Structures
Section 3.05 Repairs and Maintenance
Section 3.06 Discontinuance
Section 3.07 Non-Conforming Lots of Record

CHAPTER FOUR. ZONING DISTRICTS AND MAP

Section 4.01 Establishment of Zoning Districts

Section 4.02 Zoning Map
Section 4.03 Boundaries of Districts
Section 4.04 District Statements of Purpose
Section 4.05 Schedule of Permitted Uses
Section 4.06 Schedule of Regulations
Section 4.07 Required Conditions

CHAPTER FIVE. PUD, PLANNED UNIT DEVELOPMENT

Section 5.01 Description and Purpose
Section 5.02 Definition
Section 5.03 District Establishment
Section 5.04 Dimensional and Use Regulations
Section 5.05 Procedure
Section 5.06 Change in Plan
Section 5.07 Board of Appeals Action

CHAPTER SIX. SPECIFIC USE REQUIREMENTS

Section 6.01 Intent
Section 6.02 Types of Use Regulations
Section 6.03 Adult Camp
Section 6.04 Adult Entertainment Establishment
Section 6.05 Foster Family Group Day Care Homes
Section 6.06 Adult Foster Care Large Group Homes
Section 6.07 Auction Businesses
Section 6.08 Automobile Car Wash
Section 6.09 Automobile Repair, Body Shops, and Wrecker Services
Section 6.10 Automobile Service Stations
Section 6.11 Battery Energy Storage Systems (BESS)
Section 6.12 Bowling Alley, Indoor Archery Range, Indoor Tennis Courts, Indoor Skating Rink, or Similar Forms of Indoor Commercial Recreation
Section 6.13 Cemeteries
Section 6.14 Child Care Center
Section 6.15 Churches
Section 6.16 Communication Transmitters, Relay Stations, and Towers
Section 6.17 Composting Facilities
Section 6.18 Contractor Storage Yards and Truck Freight Terminals and Yards
Section 6.19 Convalescent Homes
Section 6.20 Data Center
Section 6.21 Drive-in/Drive-Through Restaurant
Section 6.22 Electric Power Generating Plants or Related Uses

Section 6.23 Farm Markets
Section 6.24 Funeral Homes
Section 6.25 Golf Courses
Section 6.26 Government and Public Utility Administration and Service Buildings
Section 6.27 Group Day Care Homes
Section 6.28 Home Occupations
Section 6.29 Hospitals
Section 6.30 Institutions for the Mentally Ill or Developmentally Disabled
Section 6.31 Iron or Steel Foundry or Fabricating Plants and Heavyweight Castings
Section 6.32 Kennels
Section 6.33 Manufacturer of Bulk Storage or Acetylene Gas, Alcohol, Ammonia, Bleaching Powder, Chlorine, Bituminous Asphalt, Concrete, Cement, Plastics, Paint, Oil, Shellac, Turpentine, Lacquer or Varnish
Section 6.34 Mini-Storage Rental Structure and Warehousing and Recreational Vehicle or Boat Storage Yards
Section 6.35 Mobile Home, Truck, and Farm Implement Sales and Repair
Section 6.36 Multiple Family Dwellings
Section 6.37 Open Air Businesses
Section 6.38 Other Industrial Uses that are Determined by the Planning Commission to be Similar to those Uses Permitted in the Industrial District as Special Land Uses
Section 6.39 Outdoor Space for the Sale of Rental of New or Used Automobiles, Boats, Recreational Vehicles, Trucks, or Similar Products
Section 6.40 Petroleum Storage Facilities
Section 6.41 Ponds
Section 6.42 Portable Storage Containers
Section 6.43 Private or Public Heliports
Section 6.44 Processing, Storage or Sale of Junk, Wasted, Discarded or Salvaged Materials, Machinery or Equipment Including Motor Vehicle and Trailers
Section 6.45 Propane Tank Business
Section 6.46 Public or Private Parks and Playgrounds
Section 6.47 Schools, Colleges, and Libraries
Section 6.48 Shooting Range and/or Gun Sales
Section 6.49 Soil, Sand, Clay, Gravel or Similar Removal Operations
Section 6.50 Solar Energy Facilities
Section 6.51 Specialized Farms
Section 6.52 Stables (Public)
Section 6.53 Surface Mining
Section 6.54 Utility-Grid Wind Energy Systems
Section 6.55 Veterinary Clinic (Small Animals)
Section 6.56 Veterinary Hospital
Section 6.57 Worm Farms

CHAPTER SEVEN. SPECIAL USES

Section 7.01 Intent
Section 7.02 General Standards
Section 7.03 Submittal Requirements
Section 7.04 Process
Section 7.05 Permitted Special Uses and Specific Requirements
Section 7.06 Validity, Expiration, Suspension, or Revocation
Section 7.07 Special Use Permit Amendments
Section 7.08 Performance Guarantee

CHAPTER EIGHT. SITE PLAN REVIEW

Section 8.01 Purpose
Section 8.02 Approval Matrix
Section 8.03 Pre-Application Conference
Section 8.04 Requirements and Process for a Plot Plan
Section 8.05 Site Plan Approval and Requirements
Section 8.06 Submittal and Review Process
Section 8.07 Criteria for Evaluating Site Plans
Section 8.08 Conformity to Site Plan Required
Section 8.09 Phased Development
Section 8.10 Resubmission and Revision
Section 8.11 Site Plan Expiration
Section 8.12 Financial Guarantee
Section 8.13 Compliance

CHAPTER NINE. PARKING, LOADING, AND ACCESS

Section 9.01 Intent
Section 9.02 General Requirements
Section 9.03 Design Standards
Section 9.04 Off-Street Parking Requirements
Section 9.05 Loading Requirements
Section 9.06 Deferred Parking (Non-Residential Uses)
Section 9.07 Authorized Reductions
Section 9.08 General Ingress and Egress Provisions
Section 9.09 Ingress and Egress Provisions in Business & Industrial Districts

CHAPTER TEN. LANDSCAPE PROVISIONS

Section 10.01 Intent
Section 10.02 Landscaping – General

Section 10.03 Bufferstrips Required
Section 10.04 Modifications
Section 10.05 Greenspace within the Public Right-of-Way and Private Easements
Section 10.06 Parking Areas, Front Yard – Required Landscaping
Section 10.07 Native Species
Section 10.08 Uncredited Species

CHAPTER ELEVEN. SIGNS

Section 11.01 Purpose
Section 11.02 Scope
Section 11.03 General Provisions
Section 11.04 Regulations of Signs by Zoning District
Section 11.05 Nonconforming Signs
Section 11.06 Construction Specifications
Section 11.07 Administration and Enforcement

CHAPTER TWELVE. ADMINISTRATION AND ENFORCEMENT

Section 12.01 Zoning Administration
Section 12.02 Zoning Administrator
Section 12.03 Duties and Limitations of the Zoning Administrator
Section 12.04 Permits Required
Section 12.05 Zoning Permits
Section 12.06 Public Notice Requirements
Section 12.07 Plans and Specifications
Section 12.08 Performance Guarantees
Section 12.09 Amendments to the Ordinance
Section 12.10 Penalties and Enforcement

CHAPTER THIRTEEN. PLANNING COMMISSION

Section 13.01 Authority
Section 13.02 Membership, Meetings, and Rules
Section 13.03 Responsibilities and Duties

CHAPTER FOURTEEN. ZONING BOARD OF APPEALS

Section 14.01 Authority
Section 14.02 Membership
Section 14.03 Meetings

Section 14.04 Jurisdiction and Responsibilities
Section 14.05 Appeals
Section 14.06 Interpretation
Section 14.07 Variances
Section 14.08 Application and Procedure
Section 14.09 Limitations of Authority

CHAPTER FIFTEEN. DEFINITIONS

Section 15.01 Rules Applying to Text
Section 15.02 Definitions

CHAPTER SIXTEEN. MISCELLANEOUS PROVISIONS

Section 16.01 Severability
Section 16.02 Codification
Section 16.03 Administrative Liability
Section 16.04 Repeal
Section 16.05 Effective Date

CHAPTER 1. TITLE, LEGAL BASIS, AND PURPOSE

SECTION 1.01 TITLE

This Ordinance shall be known and may be cited as the "Portsmouth Charter Township Zoning Ordinance."

SECTION 1.02 LEGAL BASIS

This Ordinance is enacted in accordance with the authority granted to townships under Act 110 of 2006 of the Public Acts of Michigan, as amended.

SECTION 1.03 PURPOSE

The fundamental purpose of this Ordinance is to promote the public health, safety, morals and general welfare in and of the Township; to encourage the use of lands and natural resources in the Township in accordance with their character and adaptability; to limit and discourage the improper use of lands, buildings and other structures; to provide for the orderly development of the Township; to reduce hazards to life and property; to establish the location and size of and the specific uses for which dwellings, buildings and other structures may hereafter be erected, altered or moved into the Township; to regulate the minimum open spaces, sanitary, safety and protective measures that shall be required for such dwellings, buildings and structures; to lessen congestion on the public roads, streets and other public places; to provide safety in traffic and in vehicular parking; to facilitate the adequate systems of transportation, education, recreation, sewage disposal, safe and adequate water supply and other public requirements; and to conserve life, property values and natural resources and the expenditure of funds for public improvements and services to conform with the most advantageous uses of land resources and properties.

CHAPTER TWO. GENERAL PROVISIONS

SECTION 2.01 EFFECT OF ZONING

A. Effect of Regulations. Except as hereinafter specified, no building, structure, premises or piece and parcel of land in and throughout the Township shall hereafter be used or occupied, and no building or part thereof, or other structure, shall be erected, raised, moved, placed, reconstructed, extended, enlarged, or altered, except in conformity with the regulations and provisions herein specified for the district in which it is located.

B. Extent of Regulations. These general provisions shall apply to all zoning districts except as otherwise noted.

C. Conflicting Regulations. Whenever any provision of this ordinance imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such ordinance shall govern.

SECTION 2.02 RESIDENTIAL ACCESSORY BUILDINGS AND STRUCTURES

For the purposes of maintaining orderliness, aesthetics, and property values in the residential areas, the following provisions are intended to regulate the location and character of accessory buildings and structures normally incidental to permitted principal uses. The following regulations are therefore intended to pertain to all accessory buildings, including but not limited to playground equipment, children's playhouses, sports courts, swimming pools, pet accommodations, radio and television antennas and similar structures. Sidewalks, driveways, fences, light posts, utility poles and signs are excluded from these regulations unless specifically stated.

A. Accessory Buildings. Shall be subject to the dimensional requirements and conditions identified on Table 2-1.

Table 2-1 Residential Accessory Buildings Schedule of Regulations

LOT SIZE (SQ.FT.)	MAX ACCESSORY BUILDING SIZE (SQ.FT.)	MAXIMUM HEIGHT (FEET)		MINIMUM SETBACKS (FEET)		
		PEAK	SIDEWALL	*SIDE OR REAR YARD	FROM THE PRINCIPAL BLDG	FROM ANY OTHER BLDG/STRUCTURE
LESS THAN 5,000	5% of lot area	11	8	10	20	15
5,000 - 11,999	5% of lot area	12	8	10	20	15
12,000 - 26,666	5% of lot area	16	10	10	20	15
26,667 - 43,559	5% of lot area	20	14	10/20**	20	15
ONE ACRE OR MORE IN A RESIDENTIAL DISTRICT	5% of lot area up to a maximum of 3,200	24	16	10/20**	20	15
ONE ACRE OF MORE IN THE AGRICULTURE DISTRICT	5% of lot area up to a maximum of 4,000	26	16	10/20**	20	15

CONDITIONS:

1. These requirements apply to any residential lot within any residential or agricultural zone district.
2. No residential accessory building is allowed in the front yard area.
3. Residential accessory buildings cannot be used for commercial purposes.
4. There shall be no dwelling or living quarters allowed in an accessory building.
5. Lots cannot be divided or reduced in any manner that would cause the accessory building to exceed the size limitation imposed upon the remaining lot.
6. A maximum of two residential accessory buildings are permitted in addition to an attached or detached garage if they do not exceed the allowed square footage when combined.
7. A pool house mechanical building up to 144 sq.ft. that is used for a pool pump and related mechanical equipment is allowed in addition to any other allowed accessory buildings. If the pool is removed the pool house must be removed as well. Its square footage is included in the maximum allowed accessory building size.
8. Maximum grade elevation for an accessory building shall be one vertical foot of rise to the floor of the building for each 10 horizontal feet from the grade existing on the neighboring property.
9. The minimum setback requirements for side and rear yard are contingent upon the property owner providing positive drainage for the accessory building as required by the building inspector, up to and including catch basins and drain tile.
10. Lot size is determined by the legal description of the property.
11. All plans must be approved by the building inspector with a site visit.

* Any building equal to or less than 144 sq.ft. is only required to maintain a five foot rear and side yard setback no matter what size lot the building is placed upon.

** If the sidewall of the accessory building is greater than 12 feet, the minimum side and rear yard setbacks are increased to 20 feet.

B. Accessory Structures Other Than Buildings.
The following provisions are intended to regulate certain accessory structures other than buildings which for reasons of health, safety, welfare and aesthetics require special attention.
1. Any detached accessory structures, not classified as buildings, may not project closer than ten (10) feet to any side or rear property line except that, boat docks, patios and pumphouses may be located at or near the water's edge, provided that the required side yard placement is maintained and all other applicable local and state permits are obtained prior to their erection or placement.
2. Satellite Dish Antennas:
   a. A dish antenna may be mounted on the roof of a principal or accessory building provided the dish antenna, including the mounting structure, shall not exceed the height of the peak of the roof of the building.
   b. Dish antennas are permitted in all zoning districts upon approval of the Zoning Administrator, provided the setback requirements for detached accessory buildings are maintained and the following conditions satisfied:
      i. Any antenna with support structures located on the ground shall be permanently anchored to a foundation.
      ii. No portion of the antenna shall display any advertising, message, or other graphic representation intended for commercial purposes other than the manufacturer's name.
      iii. No dish antenna with support structures located on the ground shall exceed a height of fifteen (15) feet, including its mounting structure.
      iv. No dish antenna shall be located in the front yard.
   c. If the antenna is to be located in the side yard, or in the rear yard on the street side of a lot, the Zoning Administrator may require that a landscape screen be installed around the antenna to obstruct the view of the antenna from adjoining properties or from the street.
3. Accessory Structures Mounted on Buildings: Unless otherwise regulated, necessary mechanical appurtenances such as air exchange units and elevator bulkheads shall be effectively screened as viewed from an adjoining property line by a parapet wall or similar feature constructed of materials having a similar exterior appearance as materials used on the front exterior of the building.
4. Mechanical Appurtenances: Mechanical appurtenances such as blowers, ventilation fans and air conditioning units and swimming pools filters or heaters shall not be located closer than ten (10) feet to any lot line.

SECTION 2.03 BUILDINGS

A. Health Department Approval. No zoning permit will be issued for the construction of a building or structure which is to be served by a private well and/or a septic tank and drainfield unless the facilities comply with all rules and regulations and all necessary permits have been issued by the Bay County Health Department.

B. Height Exceptions. Subject to other provisions of law, the height limitations of all districts shall be subject to the following exception: chimneys, spires, water tanks, antennas, monuments, agricultural buildings and structures or other appurtenances usually required to be placed above roof level and not intended for human occupancy.

C. Moving Buildings. No permit shall be granted for the moving of buildings or structures from without or within the limits of the Township to be placed on property within said limits unless a building permit has been approved. Such building permit shall not be approved unless an inspection of the building to be moved has been made and has found that it is structurally safe, will not adversely affect the character of existing buildings in the neighborhood of the new location and will fully comply with the adopted Township Building Code, this Ordinance, and other codes regulating the health, safety and general welfare of the Township.

D. Razing Buildings. No building shall be razed until a permit has been obtained from the Zoning Administrator who shall be authorized to require a performance guarantee in the amount equal to one hundred twenty (120) percent of the cost estimate for the subject demolition. Said guarantee shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such reasonable regulations as to health and safety as the Zoning Administrator may reasonably require and this Ordinance may, from time to time, prescribe, including filling of excavations and proper termination of utility connections.

E. Repairing Buildings. Except as otherwise specified herein, nothing in this Ordinance shall prevent the strengthening or restoring of any building or part thereof to a safe condition.

F. Temporary Buildings, Structures, and Uses. Mobile homes, mobile offices, tents or other movable or erected structures intended for temporary use or occupancy incidental to construction work, or special events shall only be situated or erected upon land or premises within the Township and used for any permitted use under the following provisions:
   1. Zoning permits for temporary construction trailers, sheds, and offices may be issued by the Zoning Administrator according to the following criteria:
      a. Unless involved with a major public improvement project, temporary structures may only be located in commercial, industrial, residential, or approved planned unit development districts.
      b. No temporary zoning permit may be issued prior to the issuance of a building permit for the permanent building. Temporary permits shall be valid for a period not to exceed six (6) months from date of issuance. A one-time six (6) month extension may be granted by the Zoning Administrator upon request. .
      c. Temporary Structures shall be located on the same site as the construction.
      d. Temporary structures shall be located on the site such that:
         i. On and off-site traffic hazards are minimized.

ii. The aesthetic impacts are reasonably minimized.
iii. No temporary structure is placed closer than ten (10) feet to any property line.
iv. All applicable safety, health, and fire codes are met.

e. No final inspection shall be issued until all temporary structures have been removed from the site.
f. Where alternate on-site locations are available, no temporary structure shall be located next to developed residences.

2. Permits for temporary structures such as tents used in conjunction with special short term outdoor events may be issued by the Zoning Administrator according to the following criteria:
   a. On and off-site traffic hazards are minimized
   b. The structure is not placed within any required front or side yard green area of an existing building or otherwise within twenty-five (25) feet of any adjoining property or public or private street right-of-way.
   c. The structure shall be anchored according to manufacturer's specification and the Township is indemnified by the property owner against all property damage or personal injury that may result from potential hazards caused by the erection and placement or failure of the structure.
   d. The structure will be in place for no longer than seventy-two (72) hours.
   e. The event does not directly or indirectly involve the sale, distribution or consumption of alcoholic beverages.
   f. The event is a public service event or an event sponsored by existing business(es) located on or adjacent to the parcel on which the structure is to be located and the merchandise, services or goods displayed within the structure are of the variety normally offered by those existing businesses.
3. Temporary Real Estate Sales Offices & Model Units. The use of a building or dwelling unit as a model for the purpose of selling real estate may be permitted on a temporary basis subject to the following:
   a. The building or unit is part of a contiguous development in which the construction of other similar buildings or units is being actively carried out by the individual, firm, partnership or contractor having legal interest in the model building or unit.
   b. No more than four hundred fifty (450) square feet of floor area contained within the model unit is devoted to sales office use, with the remainder being utilized for show or display of salient interior design and architectural features.
   c. The address of the building or unit used as a principal business address for carrying out real estate transactions, or the properties offered, listed and sold from the model/temporary real estate office are contained entirely within the same contiguous development.
   d. The use of a building or unit for such purposes shall only be authorized under the provision of Chapter Seven, "Special Uses." In approving such use, the Planning Commission may establish a reasonable time limitation.

4. Yard Sales. Yard or garage sales, including auctions, are permitted on the same premises not more than two times in any calendar year in all residential districts. Any signs used to advertise such sales shall be removed immediately upon the conclusion of the sale. No such sale shall last longer than three (3) days.

SECTION 2.04 CONDOMINIUMS

A. Ownership Permitted. Condominium ownership is permitted in any zone district as a form of ownership and as defined in Section 141 of the Condominium Act (MCLA 559.241), being Act No. 59 of the Public Acts of 1978, as amended; provided that they comply with the requirements of the zoning ordinance and Public Act 59 of 1978, as amended.
   1. Prior to the construction of any condominium project, a site plan review and approval described in Chapter Eight is required. Additionally, prior to construction of any condominium development, all necessary permits required by any other federal, state or local government agency must be secured and approval obtained.
   2. Prior to construction of any condominium project, approval from the Board of Trustees of Portsmouth Township is required for all utilities to service said project and the cost of all utility installations shall be borne by the developer.

B. Mobile Home Condominium Development. Mobile Home Condominium development shall be allowed under the same terms and conditions as any other mobile home park within the applicable zoning districts. A mobile home condominium development shall conform to all requirements of the applicable zone district for which it is proposed as any other mobile home park and further, it shall comply with all applicable requirements of the Mobile Home Commission Act, being Public Act 96 of 1987, as amended and the Mobile Home Code and Rules promulgated thereunder, and this Ordinance.

C. Multiple Dwelling Condominium Development. Multiple dwelling condominium projects are allowed in any zone district which allows multiple family dwelling units or apartments, under the same terms and conditions as a multiple dwelling unit or apartment. Additionally, as part of the site plan review process for a multiple family condominium project, the Planning Commission has the full right, authority and discretion to approve or disapprove any internal vehicular traffic circulation patterns in its sole discretion.

D. Single-Family Residential Condominium Development. Single family condominium projects are allowed in any zone district which allows single family homes and subdivisions under the same terms and conditions as a single-family home or subdivision. In a single-family condominium project, all internal roadways shall be dedicated to the public as public streets. All area requirements for single family homes contained in the applicable zone shall be maintained in a single-family condominium project. For purposes of single-family condominium projects, the dwelling unit shall maintain the minimum spatial requirements for yards and setbacks as required

by the applicable zone district for single family homes or subdivisions. For purposes of this requirement, the spatial setback or yard may be part of the condominium unit, a limited common element or a general common element. In no instance shall the yard or setback be ascribed to more than one unit.

E. Condominium Subdivision Requirements. Condominium subdivisions, as defined in Chapter 15 are permitted in any zoning district in accordance with the following conditions:
   1. All condominium subdivisions, structures and uses therein shall comply with all use, area, parking, general requirements, and conditions of the zone district within which the project is located. All mobile home condominium developments shall satisfy the minimum requirements of Chapter Four.
   3. All information included in a Condominium Project Plan defined in Chapter Fifteen shall be submitted to the Planning Commission for site plan review in accordance with the provisions contained in Chapter Eight.
   4. Condominium Master Deed. A copy of the condominium master deed, all attachments and any amendments thereto as required by Public Act 59 of 1978, as amended, shall be filed with the Portsmouth Township Clerk within ten (10) days after recording with the Bay County Register of Deeds.

SECTION 2.05 DRIVEWAY PERMITS.

Prior to the granting of a permit for any construction involving a new driveway opening to a public street, a permit for such driveway from the State and/or County agency shall be submitted to the Zoning Administrator.

SECTION 2.06 DWELLINGS

A. Basement & Illegal Dwellings. The use of any portion of a basement excluded from the total floor area computations as a dwelling or as sleeping quarters unless such area meets the minimum requirements of the most recently adopted Michigan residential building code for habitable space. The uses of the basement of a partially completed building as a dwelling unit is prohibited. Buildings erected as garages or other accessory buildings shall not be occupied for dwelling purposes.

B. Single- & Two-Family Dwellings. All single- and two-family dwelling units located outside of manufactured home parks shall comply with the following requirements:
   1. The minimum width of any single-family dwelling unit shall be twenty-four (24) feet for at least sixty-seven (67) percent of its length, measured between the exterior part of the walls having the greatest length.

2. There shall be a foundation of concrete or block around the entire exterior perimeter of all dwellings. The foundation shall have a minimum depth of forty-two (42) inches below grade. The foundation shall provide a maximum exposed foundation above grade of sixteen (16) inches and a minimum exposed foundation above grade of eight (8) inches. The Building Inspector may permit a lesser requirement, based on soil conditions, building type, topography, and any other relevant factor.
3. All dwellings without basements shall provide a crawl space below the entire floor of the dwelling two (2) feet in depth with a vapor barrier on the floor of the crawl space. The crawl space shall also be provided with adequate drains to drain any accumulation of water in the crawl space. The Building Inspector may allow an alternative building plan to be utilized if consistent with the approved construction code of the Township.
4. All dwellings shall be firmly attached to the foundation so as to be watertight as required by the construction code currently adopted by the Township, or if a manufactured home shall be anchored to the foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled "Manufactured Home Construction and Safety Standards."
5. The wheels, pulling mechanism and tongue of any manufactured home shall be removed prior to placement on a foundation.
6. All dwellings shall be connected to a public sewer system and water supply system and/or a well or septic system approved by the Bay County Health Department.
7. All dwellings shall provide steps or porch areas, permanently attached to the foundation, where there exists an elevation differential of more than one (1) foot between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress.
8. All dwellings shall contain a storage area in a basement, an attic area, in a garage or in a separate structure of standard construction similar to or of better quality than the principal building equal to ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
9. All additions to dwellings shall meet all of the requirements of this Ordinance and shall satisfy all requirements of the adopted Township Building Code, and all other applicable state and federal regulations. .
10. All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity and shall satisfy the following minimum requirements.
    a. The pitch of the roof shall not be less than three (3) feet of rise for each twelve (12) feet of horizontal run, and shall have not less than a six (6) inch overhang on all sides.
    b. Exterior walls must have wood, aluminum or vinyl siding and/or brick facing for all exterior walls, including all additions.
    c. All dwelling units shall provide a minimum height between the floor and ceiling of seven and one-half (7 ½) feet.
11. Prior to issuance of a zoning permit for any dwelling unit, a plot plan must be reviewed and approved according to the procedures outlined in Chapter Eight of this Ordinance. A zoning

permit shall be issued in accordance with the procedures outlined in Section 12.05 of this Ordinance.

SECTION 2.07 ESSENTIAL PUBLIC SERVICES

A. The erection, construction, alteration or maintenance by public utilities or governmental units, boards or commissions or essential public services as defined in Chapter Fifteen which are reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health, safety or general welfare is permitted in any District.

B. Notwithstanding the provisions contained above:
   1. All proposed fencing or walls not be less than six (6) feet in height and adequate to obstruct passage of persons or materials.
   2. Maintenance shops, repair garages, or storage yards are not permitted as part of an essential service as a principal or accessory use.
   3. Public utility facilities in any District are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform with the general character of the architecture of the surrounding neighborhood.

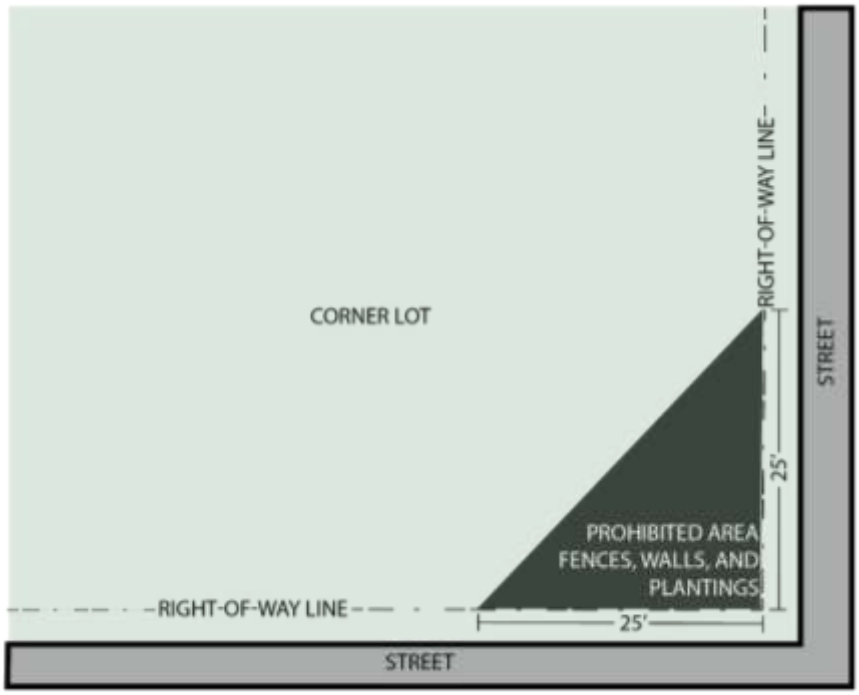
SECTION 2.08 FENCING AND TRAFFIC VISIBILITY

A. Fences in any residential district shall not exceed six (6) feet in height, or eight (8) feet in height in any non-residential district, measured from the surface to the uppermost portion of the fence and along an imaginary line that is five (5) feet from and parallel to either side of the fence.

B. Fences and walls erected within the required front yard in any District, except when used to enclose vacant or agricultural land, shall not exceed forty-two (42) inches in height unless they are of a type which is not more than twenty-five (25) percent solid, so as not to obscure vision at the right-of-way or property line of the lot or parcel on which it is placed and provided they do not exceed a height of six (6) feet.

C. Fences shall not be erected within any public right-of-way in any District.

D. Fences, walls and plantings shall not be erected or maintained in any District in such a way as to obstruct the vision of vehicle drivers within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two points located on those intersecting right-of-way lines twenty-five (25) feet from the point of intersection with the right-of-way lines.



E. The use of barbed-wire fencing is prohibited except on a farm or as may be required for security reasons to protect publicly owned buildings or business or industrial operations with approval of the Zoning Administrator. Razor wire fences are not allowed anywhere within the Township.

SECTION 2.09 GRADING AND DRAINAGE

A. Adequate Lot Drainage. Prior to construction of any residential, commercial, or industrial development within the Charter Township of Portsmouth, all drainage plans shall be approved by the Township Zoning Administrator or Township Engineer.

Where construction of a one (1) or two (2) family dwelling is proposed on a lot or parcel that is not part of an overall development with an approved drainage plan, the Zoning Administrator shall require, at a minimum, that drain tiles be installed along the side and rear property lines (unless waived by zoning administrator due to a duplication of drainage) , as viewed from the street, the entire depth of the property and across the entire rear property line of the residential parcel. If, in the Zoning Administrator's opinion, the lot is larger than ordinarily used for residential purposes, the tile may be installed in such a manner as to provide positive drainage for the normal residential area to be occupied by the house to be erected, but in no event less than one hundred twenty (120) feet of depth of tile and one hundred (100) feet of width of tile parallel to the street. For all other residential, commercial, and industrial construction, the drainage plans shall be approved by the Township Engineer.

B. Site Preparation – Excavation & Extraction. Prior to the commencement of site preparation, the approval of a grading plan and the primary purpose for carrying out the site preparation must be obtained from the Zoning Administrator. In addition, a zoning permit must be obtained which specifies the terms and conditions under which the site preparation shall be carried out.

C. Site Preparation – Filling/Excavating. From and after the effective date of this Ordinance, it shall be unlawful for any person, firm, corporation, partnership, or other organization or entity to use land for filling with material of any kind or for any excavation in excess of 500 cubic yards without first obtaining a Special Use Permit for soil, sand, clay or similar removal operations in accordance with the provisions of Chapter Six, Section 6.49 and Chapter Seven.

SECTION 2.10 LAND USES

A. Ascribed Principal Use of Residential Property. No more than one principal single-family or two-family residential building with the customary accessory buildings and structures shall be erected on any individual lot or parcel of land, except as herein permitted.

B. Continuation of Existing Lawful Land Uses. Any building, structure or use, lawfully in existence at the time of the effective date of this Ordinance may be continued except as hereinafter provided in "Chapter Three, Nonconforming Uses."

C. Motor Vehicle Repair. Mechanical work on motor vehicles in residential districts shall be permitted, provided such vehicles are not used primarily for racing. Such vehicle must be owned by the occupant of the dwelling on the premises. All work must be performed within a building, and no parts or vehicles not in legally operating condition may be stored outside.

D. Unlawful Use Not Authorized. Nothing in the Ordinance or any amendment hereto shall be interpreted as authorization for or approval of the continuance of the unauthorized use of a

structure, land or premises in effect at the time of the effective date of the Ordinance, or any amendment hereto.

SECTION 2.11 LOTS AND PARCELS

A. Area or Space Required**.** No site, lot, or lots in common ownership shall be so divided, altered, or reduced so that the yard, setbacks, open space area, or parking space is less than the minimum required under this Ordinance. In determining lot and yard requirements, no area necessary for compliance with the space requirements for one main building shall be included in the calculation of the space requirements for any other building or use.
B. Registration of Property. The description of and the deed for every parcel of land shall be required to be on record with the Bay County Register of Deeds, prior to the authorization of any use of the lot or parcel of land by the Township.

SECTION 2.12 OUTDOOR LIGHTING

Outdoor lighting located on privately owned property shall be down directed and so arranged that it will not shine directly on streets or occupied dwellings. All lighting for non-residential uses shall meet the best practices of the international dark sky association.

SECTION 2.13 OUTDOOR STORAGE

A. Firewood. Outside storage of firewood in residentially used parcels within the Township shall only be permitted in rear and side yards. Such firewood shall not be stored at a location no closer than five (5) feet from any side or rear lot line or ten (10) feet from any building on the lot or within ten (10) feet from a dwelling on another lot or parcel.

B. Recreational Vehicle Storage in Residential Districts. The outdoor storage of any recreational vehicle, such as: airplane, boat, float, camping or travel trailer, detachable travel equipment of the type adaptable to light duty trucks, snowmobile, and other equipment or vehicles of a similar nature, shall be prohibited for a period greater than seventy-two (72) hours in any thirty (30) day period in all residential districts except where otherwise permitted by this Ordinance, unless the following minimum conditions are met:
    1. All such vehicles and equipment shall be placed within a completely enclosed building or located behind the front face of the main building, and no closer than five (5) feet to any side or rear lot line. No storage of such vehicles shall be permitted on a corner lot in the required yards adjacent to the street.
    2. Storage or parking shall be limited to a parcel of land upon which is located an inhabited dwelling unit and the vehicle or equipment so stored or parked is owned by the occupant.

SECTION 2.14 SWIMMING POOLS

A. Pools used for swimming or bathing shall be in conformity with the requirements of this section; provided, however, these regulations shall not be applicable to any such pool less than twenty-four (24) inches deep or having a surface area less than two hundred and fifty (250) square feet, except where such pools are permanently equipped with a water recirculating system or involve structural materials.

B. A swimming pool or appurtenances thereto shall not be constructed, installed, enlarged, or altered until a zoning permit has been obtained from the Zoning Administrator.

C. The outside edge of the pool wall shall not be located closer than ten (10) feet from any side property line; and shall not be located closer than twenty (20) feet from any rear property line. No pool shall be located under any electrical wiring or in a front yard.

D. Each swimming pool shall be enclosed by a fence or wall at least four (4) feet in height, or by another protective device (e.g., natural barrier, hedge, or pool cover) in accordance with the Michigan Residential Building Code, sufficient to make the pool inaccessible to small children. If a fence or wall is used, it shall be at least four (4) feet above grade, and all gates shall be self-latching with latches located at least four (4) feet above grade or otherwise made inaccessible to small children from the outside. An above-ground swimming pool with a deck at least four (4) feet above grade is not required to be enclosed by a fence or wall; however, any access point (including stairs or ladders) shall be secured with gates and latches or otherwise made inaccessible to small children from the outside.

E. All swimming pool installations shall comply with the following standards:
   1. The swimming pool and equipment shall be equipped to be completely emptied of water, and the discharged water shall be disposed of in an approved manner that will not create a nuisance to adjoining property.
   2. All swimming pools shall be provided with a recirculating skimming device or overflow gutters to remove scum and foreign matter from the surface of the water.
   3. One or more means of egress shall be provided from the pool. Treads of steps or ladders shall have slip resistant surface and handrails on both sides.
   4. All appurtenant structures, installations and equipment, such as showers, dressing rooms, equipment houses or other buildings and structures including plumbing, heating and air conditioning, among others, appurtenant to a swimming pool, shall comply with all applicable requirements of this Ordinance and the Township Building Code.
   5. The pool structure shall be engineered and designed to withstand the expected forces to which it will be subjected.
   6. Any electrical wiring within twenty-five (25) feet of the water's edge of the pool shall be placed underground and an appropriate conduit approved for such purposes to prevent

electricity from being conducted into the water. No electric wires of any kind shall cross or be over the water's surface. Any underwater lighting shall be accomplished by the use of methods and materials approved for such purposes. In addition, all electrical equipment and related components shall conform to the current National Electrical Code, as adopted by the Portsmouth Township Board.

7. There shall be no cross-connections of any public water supply with any other source of water supply for the pool. The line from the public water supply to the pool shall be protected against back flow of water by means of an air gap and shall be discharged at least six (6) inches above the maximum high-water level of the makeup tank or the pool.

SECTION 2.15 KEEPING OF PETS AND OTHER ANIMALS

The keeping of animals is permitted on a lot or parcel as an accessory use to an established and permitted residential principal use in accordance with the following provisions.

A. No more than four (4) dogs or four (4) cats or a combination making a total of four (4) of both shall be kept or housed on any parcel where there is a dwelling. However, that any litter of dogs which causes the aforesaid limit of four (4) to be exceeded shall not constitute a violation of this provision for a period of four (4) months after birth; and provided further, however, that no more than two (2) such litters shall be allowed within any consecutive twelve (12) month period.

B. Unless documentation is submitted to the Township demonstrating compliance with generally accepted agricultural management practices for the keeping of such animals, domesticated animals such as horses, cattle, goats, hogs, sheep, and llamas that are not located on farms shall be permitted only under the following conditions:
   1. The number of such animals shall not exceed one (1) animal for the first five (5) acres of lot area and one (1) additional animal for each additional acre of land.
   2. All such animals shall be confined in a suitable fenced area, or paddock, equal in size to sixty (60) percent of the total area required above and the area shall not be located closer than sixty (60) feet from any street right-of-way, dwelling located on the premises of any adjacent lot or parcel that is zoned or primarily used for residential purposes.
   3. Any accessory building in which such animals are kept shall be at least one hundred (100) feet from any property line, street right-of-way or dwelling located on the premises.

C. Other fowl are permitted to be kept at a ratio of six (6) birds/hens per one-half (1/2) acre of land.
   1. Any accessory building in which such animals are kept shall be at least the minimum setback of the underlying zoning district from any property line, street right-of-way or dwelling located on the premises.
   2. In all residentially zoned districts, such animals shall be confined in a suitable fenced area that meets the underlying zoning district.
   3. Exempting qualified agricultural operations, roosters are prohibited.

D. Animals of a feral nature such as lions, tigers, bears, wolves, ferrets, poisonous snakes, pythons, boa constrictors or other animals, reptiles, fowl, or living creatures not ordinarily of a domestic nature or tame in their natural environment shall not be kept or placed on private property in any zoning district. Interpretation of whether a particular animal or class of animals and pets falls within this classification shall be made by the Zoning Administrator. All determinations made by the Zoning Administrator relative to the classification of animals may be appealed to the Zoning Board of Appeals as further provided in this Ordinance. The Zoning Administrator and Zoning Board of Appeals shall consider the potential danger of keeping particular animals and whether they pose a threat to the health, safety and welfare of the residents of the Township.

CHAPTER THREE. NON-CONFORMITIES

SECTION 3.01 NON-CONFORMING BUILDINGS, STRUCTURES, AND LAND

At the time of adoption of this Ordinance, or any amendment, there exist structures, buildings and uses of land that were lawful prior to the adoption of this Ordinance or any amendment, but which do not conform with the requirements of this Ordinance or any amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival.

SECTION 3.02 NON-CONFORMING STRUCTURES

Where a lawful structure exists at the effective date of adoption of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. Should such non-conforming structure or non-conforming portion of the structure be destroyed by any means to an extent of more than its state equalized value at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

B. Should such structure be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

C. A non-conforming building or structure which is non-conforming due to failing to meet all required physical standards (i.e. setbacks, lot area, lot width, parking, etc.) may be enlarged or extended only upon approval of a special use permit by the Planning Commission, and further provided that the enlargement or extension complies with all required physical standards. In no event shall the Planning Commission approval extend to enlarge the non-conforming structure more than an additional fifty (50) percent of the existing non-conforming structure. In considering the grant or denial or grant with conditions of this special use permit, the Planning Commission shall consider the following:
    1. If the enlargement or extension will substantially extend the probable duration of such non-conforming structure and if all enlargements since the structure became non-conforming are upon and limited to the same parcel the non-conforming structure was located on at the time of the adoption of the existing Portsmouth Township Zoning Ordinance.
    2. If the enlargement or extension will likely create requests for variances in the area.
    3. If the enlargement or extension will interfere with the use of other properties in the vicinity for the uses for which they have been zoned.

4. The scope of the non-conformity of the existing building or structure in contrast to the minimum physical standards as called for within the zoning classifications, including but not limited to:
   a. Parking
   b. Setbacks
   c. Height
   d. Lighting
   e. Drainage
   f. Required public utilities
   g. Lot area
   h. Lot width
   i. Landscaping
   j. Compatibility with adjacent properties
   k. Required landscaping
5. The Planning Commission has the discretion to grant with conditions the special use permit to extend or enlarge a non-conforming building or structure. It is expressly conveyed to the Planning Commission the authority or power to make conditions effecting the existing structure, building or parcel, as a condition of granting the permission to extend or enlarge the building or structure. The Planning Commission has the discretion to impose conditions on the original non-conforming structure, building, or parcel to make it less non-conforming up to and including all conditions which would be required to make it a conforming building, structure, or parcel.

SECTION 3.03 NON-CONFORMING USES OF LAND

Where, at the time of passage of this Ordinance lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawfully provided:

A. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

B. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance.

C. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such non-conforming use of land.

SECTION 3.04 NON-CONFORMING USES OF STRUCTURES

If lawful use involving individual structures or of structure and premises in combination exists at the effective date of adoption of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

A. An existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

B. Any non-conforming use extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.

C. If no structural alterations are made, any non-conforming use of a structure, or structures and premises, may be changed to another non-conforming use provided that the proposed use is legally appropriate or more appropriate to the district than the existing non-conforming use.

D. Whenever a non-conforming use has been changed to a conforming use, or to a use permitted in a district of greater restriction it shall not thereafter be changed to a non-conforming use.

E. Any non-conforming single-family residential structure may be expanded or increased in floor area fifty (50) percent of the size of the structure at the time of adoption of this Ordinance.

F. Where non-conforming use applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction for the purpose of this Section is defined as damage to an extent greater than the state equalized value at time of destruction.

SECTION 3.05 REPAIRS AND MAINTENANCE

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding the state equalized value of non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased. If a non-conforming structure or portion of structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by the Building Inspector to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt in conformity with the regulation of the district in which it is located.

SECTION 3.06 DISCONTINUANCE

No non-conforming structure or use shall be re-established after abandoned or discontinued for a continuous period of twelve (12) months. A non-conforming structure or use shall be determined to be abandoned if one or more of the following conditions exist, and which shall be deemed to constitute an intent on the part of the property owner to abandon the non-conforming structure or use.

A. Utilities, such as water, gas and electricity to the property, have been disconnected.

B. The property, buildings, and grounds, have fallen into disrepair.

C. Signs or other indications of the existence of the non-conforming use have been removed.

D. Equipment or fixtures which are necessary for the operation of the non-conforming structure or use have been removed.

E. Other actions, which in the opinion of the Zoning Administrator, constitute an intention of the part of the property owner or lessee to abandon the non-conforming structure or use.

SECTION 3.07 NON-CONFORMING LOTS OF RECORD

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. This provision shall apply even though such lots fail to meet the requirements for area or width, or both, that are generally applicable in the district.

If two or more lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or occupied which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot width or area below the requirements stated in this Ordinance.

CHAPTER FOUR. ZONING DISTRICTS AND MAP

Section 4.01 ESTABLISHMENT OF ZONING DISTRICTS

For the purpose of this Ordinance, Portsmouth Charter Township is hereby divided into the following zoning districts:

Table 4-1 Zoning Districts

ABBREVIATION	DISTRICT NAME
AE	Agricultural-Estate
SFR	Single-Family Residential
RF	Residential Flex
MHP	Mobile Home Park
LB	Local Business
GB	General Business
LI	Light Industrial
GI	General Industrial
PUD	Planned Unit Development

Section 4.02 ZONING MAP

The locations and boundaries of such districts, shown upon the map, which is incorporated herein by reference, and made a part hereof, are hereby established, said map being designated as the "Zoning Map of Portsmouth Charter Township, Bay County, Michigan." Said map and all the notations, references, and other information thereon shall be as much a part of this Ordinance as if the matters and information set forth by said map were all fully described herein. Regardless of the existence of copies of the zoning map which may be made, the official zoning map shall be located in the office of the Township Clerk and, together with official records, shall be the final authority as to the current zoning status in the Township. The official zoning map shall be identified by the signature of the Township Clerk. Said map is to be maintained in an up-to-date manner and shall be accessible to the general public.

Section 4.03 BOUNDARIES OF DISTRICTS

Where uncertainty exists as to the boundaries of districts as shown on the official map, the following rules shall apply:

A. Boundaries indicated as approximately following the centerline of streets, railroads or alleys shall be construed to follow such centerline.

B. Boundaries indicated as following shorelines shall be construed to follow shorelines, and in the event of change in the shoreline shall be construed as following such change. Boundaries indicated as approximately following the centerline of streams or rivers shall be construed as following such centerline.

C. Boundaries indicated as approximately following lot or property lines shall be construed as following such lines.

D. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.

E. Where other circumstances exist, the Board of Appeals shall interpret the district boundaries.

F. Whenever all or part of a street, alley or other public way is vacated, it shall automatically become a part of the district to which it attaches to. If a vacated right-of-way is bordered by two (2) different Districts, the area is divided along a line halfway between them according to the adjacent Districts.

SECTION 4.04 DISTRICT STATEMENTS OF PURPOSE

A. **(A-E) Agricultural Estate District.** This district is primarily intended for large tracts used for farming or which are idle. It is not intended for any use except agriculture, low-density single-family residential use, other rural uses requiring large tracts of land and various related uses. One of the purposes is to preserve the rural character of the area. These areas are not served with public utilities and are likely to remain without such services for an extended period of time into the future. If more intense development and subdividing are to occur it should be preceded by sound planning and rezoning.

B. **(SFR) Single Family Residential District.** The primary purpose of this district is to designate certain portions of the Township exclusively for low-density, single-family dwellings along with complimentary religious, educational and recreational uses. The specific intent is:
   1. To encourage the construction of, and the continued use of the land for single-family dwellings.
   2. To prohibit business, commercial or industrial use of the land, and to prohibit any other use which would substantially interfere with development or continuation of single-family dwellings in the district.
   3. To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this Ordinance.
   4. To discourage any land use which would generate traffic on minor or local streets other than normal traffic to serve the residences on those streets.
   5. To discourage any use which, because of its character or size, would create requirements and costs for public services, such as fire and police protection, water supply, and sewage,

substantially in excess of such requirements and costs if the district were developed solely for single-family dwellings.

C. **(RF) Residential Flex District.** The Residential Flex District is designed to permit more intensive residential uses of land and neighborhood commercial uses that serve the immediate area. Typical permitted uses would include attached single-family houses, townhouses, apartments and those commercial land uses that are harmonious with residences in the district. These areas should be located near major thoroughfares for good accessibility and serve as a transitional area between low density residential and those more intense non-residential land uses.

D. **(MHP) Mobile Home Park District.** The purpose of the Mobile Home Park District is to encourage a suitable environment for people and families that choose to live in a mobile home rather than a conventional single-family structure.

E. **(LB) Local Business District.** The Local Business District is intended to permit retail business and service uses which are needed to serve the nearby residential areas. In order to promote such business developments so far as is possible and appropriate in each area, uses are prohibited which would create hazards, offensive and loud noises, vibration, smoke, glare, or heavy truck traffic. The intent of this District is also to encourage the concentration of local business areas to the mutual advantage of both the consumers and merchants and thereby to promote the best use of land at certain strategic locations and to avoid marginal strip business development along heavily traveled roads.

F. **(GB) General Business District.** The General Business District is intended to permit a wider range of business and entertainment activities than permitted in the Local Business District. The permitted uses not only serve nearby residential areas, but also customers farther away for types of businesses and services usually found in community shopping centers. These uses generate larger volumes of vehicular traffic, need more off-street parking and loading, and require more planning to integrate such a district with adjacent residential areas. Such District reflects existing shopping concentrations, other commercial uses along major highways, and desired future centers which are needed to adequately serve the future population of the Township.

G. **(LI) Light Industrial District.** It is the intent of the “LI”, Light Industrial District to provide for the development of a variety of industrial and ancillary uses that are characterized by low density land coverage; the absence of objectionable external impacts; and high quality, attractive industrial architecture. The regulations contained in this Chapter will facilitate the continued development of new, high-quality industrial facilities in a well-planned environment so as to protect the public health, safety, and general welfare; promote economic stability and growth; prevent encroachment of uses that are incompatible with the industrial character of the district; encourage variety in the design and type of structures constructed; and provide for efficient traffic movement.

H. **(GI) General Industrial District.** The district is intended to permit industrial uses which are not unreasonably offensive, hazardous or debilitating to surrounding property or the community through the effects of noise, smoke, odor, dust, dirt, noxious gases, vibration, glare, heat, fire hazards, industrial waste or traffic. In instances where there may be doubt regarding the effect of the operation, the Planning Commission may require the prospective operator to demonstrate, through the use of qualified technical persons and acceptable testing techniques, that protective devices shall be utilized to assure the control of the questioned factor.

SECTION 4.05 SCHEDULE OF PERMITTED USES

Table 4-2 Schedule of Permitted Uses

P = Permitted Use; S = Special Use; A = Permitted Accessory Use

Use	A-E	SFR	RF	MHP	LB	GB	LI	GI	Use Standards
Agricultural Uses									
Farm	P	P	P	P	P	P	P	P	
Farm Market	P								Section 6.23
Specialized Farm	S								Section 6.51
Worm Farm	S							S	Section 6.57
Residential Uses									
Adult Foster Care Large Group Homes	P	P							Section 6.06
Adult Foster Care Family Homes	P	P	P						
Convalescent Homes			S						Section 6.19
Family Day Care Homes	P	P	P						
Foster Family Group Homes	P	P	P						Section 6.05
Foster Family Homes	P	P	P						
Group Day Care Homes	S	S	S						Section 6.27
Home Occupation	S	S	S						Section 6.28
Mobile Home Park				P					
Multiple Family Dwelling			P	P					Section 6.35
Single Family Dwelling	P	P	P						
Two-Family Dwelling			P	P					
Public/Institutional/Recreational									
Cemetery	S								Section 6.13
Communication Transmitters, Relay Towers, and Towers	S								Section 6.16

	P = Permitted Use; S = Special Use; A = Permitted Accessory Use								
Use	A-E	SFR	RF	MHP	LB	GB	LI	GI	Use Standards
Public/Institutional/Recreational Continued									
Essential Public Service Buildings, Substations, Power Generating Plants and Related Uses	S	S	S	S	S	S	S	S	Section 6.22
Essential Services	P	P	P	P	P	P	P	P	Section 2.07
Golf Course/Country Club	S								Section 6.25
Government Building	S	S	S	S	S	S	S	S	Section 6.26
Municipal, Public Service, Public Utility Buildings, Telephone Exchange Buildings and Communication or Relay Facilities							P	P	
Hospital			S						Section 6.29
Library	P	P	P						Section 6.47
Parks and Playgrounds, Private	S	S	S						Section 6.46
Parks and Playgrounds, Public	P	P	P						Section 6.46
Ponds	S	S	S		S	S	S	S	Section 6.41
Private or Public Heliports								S	Section 6.43
Schools, Primary and Secondary	P	P	P						Section 6.47
Churches		S	S		S	S			Section 6.15
Commercial Uses									
Adult Entertainment Establishment						S			Section 6.04
Alcohol and Substance Abuse Rehabilitation Centers			S			S			
Auction Businesses						S			Section 6.07
Automobile Car Wash						P			Section 6.08
Automobile Service Stations						P			Section 6.10
Automobile Repair, Body Shop, and Wrecker Service						P			Section 6.09
Banks and Financial Institutions			P		P	P	P	P	

	P = Permitted Use; S = Special Use; A = Permitted Accessory Use								
Use	A-E	SFR	RF	MHP	LB	GB	LI	GI	Use Standards
Commercial Uses Continued									
Business and Professional Offices			P		P	P	P	P	
Business Service Establishments performing services on the premise such as office machine and computer repair						P			
Child Care Centers			S		P	P			Section 6.14
Contractor Storage Yards						P*	P	P*	Section 6.18
Corporate Office Facilities							P	P	
Drive-In/Drive-Through Restaurant						P			Section 6.21
Restaurants not including drive-through/fast food restaurants			P		P	P	P	P	
Funeral Homes			S			P			Section 6.24
Hotel and Motel						P			
Indoor Commercial Recreation and Health and Fitness Centers such as indoor tennis or swim clubs, indoor hockey or ice skating rinks, and similar commercial recreation facilities completely within an enclosed building						P*	P	P	Section 6.12
Institutions for the mentally ill or developmentally disabled			S						Section 6.30
Medical and Dental Clinics			P		P	P			
Mini-Storage Rental Structures, and warehousing and recreational vehicle or boat storage yards						P			Section 6.34
Mobile Home, Truck, and Farm Equipment Sales and Repair						P			Section 6.36
Open Air Business						P			Section 6.37
Outdoor space for the sale or rental of new or used automobiles, boats, recreational vehicles, trucks, or similar products						P			Section 6.39

	P = Permitted Use; S = Special Use; A = Permitted Accessory Use								
Use	A-E	SFR	RF	MHP	LB	GB	LI	GI	Use Standards
Commercial Uses Continued									
Personal Services Establishments such as banks, credit unions, and savings and loan associations; business and private schools; barber and beauty shops; dry cleaners serving only local retail outlet; photographic studios, radio, television, watch, and appliance repair shops; clothing and shoe repair shops; locksmiths; and video rental stores			P		P	P			
Kennels	S								Section 6.32
Photographic Film Developing, Processing, and Studio			P			P			
Physical Culture Establishment, including gymnasiums, reducing salons, masseurs, steam baths, and spa			P			P			
Propane Tank Businesses						S			Section 6.45
Public or Private Club			S			P			
Retail Business whose principal activity is the sale or rental of merchandise			P			P			
Retail Establishments such as baked goods; beverages; bicycles; book, stationary, and gift shops; candy, confections, and ice cream stores; clothing stores; dairy products; decorator shops; drug stores; dry goods stores; floral shops; fruits and vegetables; furniture and appliance stores; groceries; hardware stores; jewelry stores; meats and fish markets			P		P	P			
Service Establishment of an office, showroom or workshop nature such as taxidermist, upholsterer, caterer, exterminator, building contractor including electrical, glazing, heating, painting, paper hanging, plumbing, roofing, and plastering but excluding outside storage yards						P			
Shooting Range and Gun Sales						S			Section 6.48
Stables, Public	S								Section 6.52

	P = Permitted Use; S = Special Use; A = Permitted Accessory Use								
Use	A-E	SFR	RF	MHP	LB	GB	LI	GI	Use Standards
Veterinary Clinic (Small Animals)	P		P		P	P			Section 6.55
Veterinary Hospital	S					S			Section 6.56
Other retail and service businesses which supply convenience services primarily for residents of the surrounding neighborhood and are determined by the Planning Commission to be similar to those uses permitted in the Local Business District					P				
Other uses determined by the Planning Commission to be similar to those uses permitted in the General Business District						P			
Industrial Uses									
Major Truck Repair, Including Body Shops							S	P	
Battery Energy Storage Systems							S	S	Section 6.11
Building Trades Contractors								P	
Composting Facility	S							S	Section 6.17
Central Dry Cleaning or Laundry								P	
Data Center							S	S	Section 6.20
General Industrial Uses									
Iron or Steel Foundry or Fabricating Plants and Heavy Weight Casting								S	Section 6.31
Laboratories and Technology Centers							P	P	
Lumber Yards							P	P	
Machine Shops/Tool and Die							P	P	
Manufacturing, compounding, processing, packaging or treatment, or the assembly from previously prepared materials, of items such as food products, limited to baked goods, confectionery, and beverages; pharmaceutical products, cosmetics, and toiletries; toys, jewelry, novelties, and athletic goods; furniture, fixtures, and office equipment; signs and displays; engineering, optical, medical, photographic, and similar instruments; electrical instruments or appliances; apparel and other finished products made from fabrics, leather, canvas, fur, or similar materials; paperboard containers, and printed, published or bound materials; plastic injection molding							P	P	

	P = Permitted Use; S = Special Use; A = Permitted Accessory Use								
Use	A-E	SFR	RF	MHP	LB	GB	LI	GI	Use Standards
Industrial Uses Continued									
Manufacturing, compounding, processing, packaging or treating of textile mill products such as woven fabric, knit goods and floor coverings; lumber and wood products including millwork, prefabricated structural wood products and containers but excluding sawmills; chemical products such as plastics, synthetic fibers and cosmetics; fabricated metal products; glass products								P	
Manufacturing or bulk storage of acetylene gas, alcohol, ammonia, bleaching powder, chlorine, bituminous asphalt, concrete, cement, plastics, paint, oil, shellac turpentine, lacquer or varnish								S	Section 6.33
Mini-warehouses								P	Section 6.34
Motor Freight Terminal including garaging and maintenance of equipment, freight forwarding, packaging and crating services								P	
Packaging							P	P	
Petroleum Storage Facility								S	Section 6.40
Processing, storage or sale of junk, wasted, discarded or salvaged materials, machinery or equipment including motor vehicles and trailers								S	Section 6.44
Research and Development							P	P	
Retail Uses where such use is clearly incidental to the primary use and where the floor area devoted to retail sales does not exceed 25% of the total floor area								P	
Solar Energy Systems	S						S	S	Section 6.50
Soil, Sand, Clay, Gravel, or Similar Removal Operation	S	S			S	S	S	S	Section 6.49
Non-manufacturing Research and Development Establishments including accessory laboratories, offices, and other related facilities							P	P	
Tire, battery and automotive accessory and service facilities							P		
Truck Freight Terminals and Yards						P		P	Section 6.18

	P = Permitted Use; S = Special Use; A = Permitted Accessory Use								
Use	A-E	SFR	RF	MHP	LB	GB	LI	GI	Use Standards
Industrial Uses Continued									
Truck Sales and Rental								P	
Warehousing and General Storage							P	P	
Utility-Grid Wind Energy Systems	S								Section 6.54
Wholesale Establishments							P	P	
Other industrial types of uses that are determined by the Planning Commission to be similar to those uses permitted in the Industrial District								S	Section 6.38
Accessory Uses									
Accessory buildings, structures, and uses customarily incidental to those permitted uses	A	A	A						
Dispensaries and Clinics located on premise and incidental to the permitted use							A		
Cafeteria Facilities located on premise of and for the employees of the permitted principal use							A		
Retail Sales incidental to the permitted principal use			A		A	A	A		
Any other structural or mechanical use customarily incidental to the permitted principal use							A		

SECTION 4.06 SCHEDULE OF REGULATIONS

Table 4-3 Schedule of Regulations

	A-E	SFR	SFR with water & sewer	RF	RF with water & sewer	MHP	LB	GB	LI	GI	PUD
Lot Area (ft)	1 Acre	12,000	7,200	27,000	16,200	Section 4.07(A)	1 Acre	1 Acre	1 Acre	2 Acres	Chapter 5
Minimum Lot Width (ft)	200	100	60	135	120		150	150	150	200	
Front Yard (ft)	50[1]	35	35	40	40		100[2] 60[3] 60[4]	100[2] 60[3] 60[4]	100[2] 60[3]	100[2] 60[3]	
Side Yard (ft)	25	10	10	15	10		15[5&6]	15[5&6]	20[8]	20[8]	
Rear Yard (ft)	50	50	35	40	40		25[7]	25[7]	25[7]	25[7]	
Maximum Height (ft)	35	35	35	35	35		35	35	35	35	
Lot Coverage (%)	30%	30%	40%	30%	35%		25%	25%	25%	25%	
Minimum Floor Area (ft)	1080	1080	1080	960	960		-	-	-	-	

[1] The minimum front yard for a farm building is 100 feet.

[2] When adjacent to a major thoroughfare (M-15 or M-13).

[3] When adjacent to any public street that is not a major thoroughfare.

[4] When adjacent to a private drive or service drive.

[5] When adjacent to any Residential District that side yard shall be 25 feet with a 10 foot wide greenbelt shall be maintained along the abutting residential property line as provided in Chapter 18.

[6] Side yard requirements may be waived in instances where the land on both sides of the affected property line is within the LB or GB Districts and where firewalls are provided between adjoining buildings and adequate access is provided to the rear of the buildings for fire protection.

[7] If adjacent to any Residential District, a 10 foot wide greenbelt shall be maintained along said property line as provided in Chapter 18.

[8] If adjacent to any Residential District that side yard shall be 35 feet and a 10 foot wide greenbelt shall be maintained along the abutting property line in accordance with the requirement of Chapter 18.

SECTION 4.07 REQUIRED CONDITIONS

A. **Use Standards for Mobile Home Parks (MHP District)**
   1. All Special Land Uses in the MHP District are subject to all of the same conditions and regulations contained within that district.
   2. All mobile home parks shall have direct access onto a County Primary Road or a State Highway.
   3. Each mobile home park shall be owned and operated as a single mobile home development or as a subdivision and shall contain a minimum land area of 25 acres and a minimum of 50 mobile home sites.
   4. All mobile home parks shall maintain a minimum yard of not less than 40 feet around the entire perimeter of the mobile home park.
   5. All mobile home parks and all mobile home spaces shall be designed in accordance with the minimum requirements of Public Act of 1987, as amended and the rules promulgated by the Mobile Home Commission, as amended.

B. **Use Standards for Commercial Districts (LB, Local Business District, GB, General Business District).**
   1. All business, servicing or processing, except for off-street parking and loading facilities shall be conducted within completely enclosed buildings.
   2. All exterior lighting shall be arranged to deflect any light away from other properties or street rights-of-way.
   3. Where the Planning Commission determines that an excessive number of ingress or egress points may occur with relation to major thoroughfares, they may require service roads, and to assure adequate traffic circulation on the site, may require the development of parking so that contiguous lots on abutting properties will allow circulation from one (1) property to another without re-entering the major thoroughfare.
   4. The service roads shall have a paved surface, minimum width of 24 feet, and shall be either dedicated as public right-of-way or shall be an easement permitting its use for traffic circulation from one property to another. Any easement shall be in a form acceptable to the Planning Commission and approved or denied as part of the required Site Plan Approval process. If an easement is granted, each property owner shall be responsible for maintenance of the easement so that it remains usable as a means of getting from one property to another. The easement shall be recorded with the Bay County Register of Deeds prior to the issuance of an occupancy permit.
   5. The Site Plan shall indicate the proposed elevation of the service road at all property lines and shall conform to elevations established by the Planning Commission or, if not established, be not more than one (1) foot above or below the elevation of the adjoining property. Paving of the service road shall meet construction specifications set by the Township. If adjacent properties are not developed, the Planning Commission may defer the paving of the service road until such properties become developed. If the paving is deferred, the Planning Commission may approve temporary entrances and exits onto a major thoroughfare until such

time as the service road is completed. Further, the Planning Commission may require the escrow of funds, a performance bond, irrevocable bank letter of credit or other means to assure the paving of the service roads and the elimination of temporary entrances and exits.

6. The outdoor storage of goods or materials is prohibited.
7. More than one principal building or structure can be located on a lot provided that all of the yard requirements are maintained, that there is a minimum distance between buildings or structures equal to the height of the tallest building or structure, that adequate provisions for access to each building is shown on the Site Plan, and that all of the other requirements of the "LB" or "GB" District are satisfied for each building or structure.

C. **Use Standards for Industrial Districts (Light Industrial and General Industrial).**

1. All operations shall be conducted completely within the confines of a building; however, materials and equipment may be stored outdoors within the rear yard if screened from the view of any public street by a solid uniformly finished wall or fence with solid gates. The wall or fence shall be at least as tall as the materials or equipment being stored. Chain link fencing with interwoven slats is prohibited as a screening wall or fence.
2. Heating, ventilation or air conditioning (HVAC) units or similar electrical or mechanical appurtenances shall be properly screened. All roof-mounted heating, ventilation, or air conditioning units and similar electrical or mechanical appurtenances shall be screened from view from street level.
3. All exterior lighting shall be arranged to deflect any light away from other properties and street rights-of-way.
4. Where the Planning Commission determines that an excessive number of ingress or egress points may occur with relation to a major thoroughfare, they may require the development of parking so that contiguous lots on abutting properties will allow traffic circulation from one property to another without re-entering the major thoroughfare.
5. Easements may be required in a form acceptable to the Planning Commission and approved or denied as part of the required Site Plan Approval process. If an easement is granted, each property owner shall be responsible for maintenance of the easement so that it remains usable as a means of getting from one property to another. The easement shall be recorded with the Bay County Register of Deeds prior to the issuance of an occupancy permit.
6. The Site Plan shall indicate the proposed elevation of the easement at all property lines and shall conform to elevations established by the Planning Commission or, if not established, be not more than one (1) foot above or below the elevation of the adjoining property. Paving of the easement shall meet construction specifications set by the Township. If adjacent properties are not developed, the Planning Commission may defer the paving of the easement until such time as the adjacent properties become developed. If paving is deferred, the Planning Commission may approve temporary entrances and exits onto a major thoroughfare until such time as the easement is completed. Further, the Planning Commission may require the escrow of funds, a performance bond, irrevocable bank letter of credit or other means to assure the paving of the easements and the elimination of temporary entrances and exits.

7. More than one principal or accessory building or structure can be located on a lot provided that all of the yard requirements are maintained, that there is minimum distance between buildings or structures equal to the height of the tallest building or structure, that adequate provisions for access to each building is shown on the Site Plan and that all of the other requirements of the "LI" or "GI" District are satisfied for each building or structure.
8. All industrial uses shall maintain a bufferstrip adjacent to a public road right-of-way.
   a. When adjacent to a major throughfare the minimum required width of the bufferstrip shall be 20 feet.
   b. When adjacent to a non-major throughfare the minimum required width of the bufferstrip shall be ten (10) feet.

CHAPTER FIVE. PUD, PLANNED UNIT DEVELOPMENT

SECTION 5.01 DESCRIPTION AND PURPOSE

The district is designed to accomplish the objectives of the Zoning Ordinance through a land development project review process to achieve integration of the proposed development with the characteristics of the project area. Through the process, the district will permit and regulate the development of unified areas for various compatible uses permitted by the ordinance and for other special uses not otherwise authorized and which by their nature, may require special treatment. The following objectives shall be used as minimum criteria for determining the applicability of this district to specific project proposals:

A. To permit flexibility in the regulation of land development.
B. To encourage innovation in land use and variety in design, layout, and type of structures constructed.
C. To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.
D. To encourage useful open space.
E. To provide housing, employment, and shopping opportunities particularly suited to the needs of the residents of the Township.
F. To encourage the innovative reuse and improvement of existing sites and buildings.

SECTION 5.02 DEFINITION

For purposes of this chapter, a planned unit development includes such terms as cluster zoning, planned development, community unit plan, planned residential development, and similar terminology. A planned unit development shall also be defined as land under unified control, to be planned and developed as a whole, in a single development operation or a definitely programmed series of development operations, including all lands and buildings.

SECTION 5.03 DISTRICT ESTABLISHMENT

The PUD District shall, in accordance with the requirements and procedures set forth herein, be hereafter established by amendment to the Zoning Ordinance in accordance with statutory requirements.

SECTION 5.04 DIMENSIONAL AND USE REGULATIONS

A. **Dimensional Regulations.**
In acting upon the application, the Township Board may alter and establish lot size limits, required facilities, buffers, open space areas, density limits, setback requirements, height limits, building size limits, off-street parking regulations, landscaping rules, miscellaneous regulations and density and intensity limits where such regulations or changes are consistent with the intent of this Section and the standards set forth herein.

B. **Use Regulations.**
The Township Board may also authorize principal and other uses not permitted in the district where the land is located, provided that such are consistent with the intent of this Ordinance and the Township Master Plan.

SECTION 5.05 PROCEDURE

A. **Pre-Application Conference.**
A prospective applicant shall confer with the Zoning Administrator prior to the submission of an application for PUD zoning. The purpose of such conference is to benefit the prospective applicant by providing information and guidance before the prospective applicant has entered into binding commitments or incurred substantial expense in the preparation of plans, surveys, and other data.
1. A party wishing for a pre-application conference shall submit to the Zoning Administrator a request, in writing, for such conference. The following shall also be submitted with said request:
    a. Payment of a fee determined by ordinance of the Township Board.
    b. Legal description of the subject land.
    c. Development concept plan, meeting the minimum requirements for a plot plan, as described in Chapter 8.
    d. Narrative statement indicating the reason for PUD zoning and a general description of the proposed project.
2. The Zoning Administrator shall review the pre-application submittals to determine:
    a. Conformance with the provisions of Section 5.01.
    b. General suitability of the property for the type of project proposed.
    c. Specific areas of concern to be addressed by the applicant in the final development plan.

B. **Final Development Plan Application.**
Request for the PUD District shall be in the form of an application for is co. Such application shall include a site plan in accordance with Chapter 8. An application for a PUD approval shall be made by filing at least seven (7) copies of a complete application and site plan with the Township clerk or designee, along with the required review fee and escrow deposit. An application submitted without the required fees and deposit shall be considered incomplete and shall be returned to the applicant. A complete application shall include the following:

a. A final site plan in compliance with the requirements of Section 8.05.
b. A plan identifying the location and type of proposed and existing vegetation.
c. A description of how the proposal will be harmonious with the physical, social and environmental factors present in that immediate location and the Township as a whole.
d. A description of all exterior building materials.
e. A population profile for the development.
f. The proposed financing mechanism.
g. A description of the impact of the development on local streets, natural environmental features, schools and utilities.
h. A description of the market and economic feasibility.
i. Other such information pertinent to the development of the use.
j. Proposed phases of the development.

C. **Reasonable Conditions of Approval.**

1. Reasonable conditions may be imposed with approval of a PUD. The conditions may include those necessary to insure that public services and facilities will be capable of accommodating increased service and facility loads cause by the proposed land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
   a. Be designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will exercise the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
   b. Be related to the valid exercise of the police power, and purposes (of the relevant zone, district or section of the Ordinance) which are affected by the proposed use or activity.
   c. Be necessary to meet the intent and purpose of the zoning ordinance, be related to any standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure consistency with the adopted Master Plan.
2. The conditions imposed shall be recorded in the record of the approval action, and shall remain unchanged except as provided by law.

D. **Final Development Plan Action.**

1. Planning Commission Action. Upon receipt of a complete application the Planning Commission shall hold a public hearing in accordance with the procedures outlined in Section 12.06 to review the final development plan. The Planning Commission may, at the scheduled public hearing, recommend to the Township Board, denial, approval, or approval with conditions, of the request. The Planning Commission shall prepare a report stating its conclusions on the request, the decision, the basis for its decision, and any conditions relating to an affirmative decision. Said report shall be transmitted to the applicant and to the Township Board for consideration in making a final decision. The following standards shall be used in consideration of an application for PUD, or for conditions to be attached thereto:

a. Whether the standards of Section 5.05(B) have been satisfied.
b. Whether the proposed use will be harmonious with, and not harmful, injurious, or detrimental to existing and anticipated uses in the area.
c. Whether the proposed plan will endanger public safety or impair the health of the residents of the vicinity.
d. Whether the proposed plan will be adequately served by necessary facilities and services, including but not limited to, water, sewer, roads, fire protection, police services, and drainage.

2. Township Board Action. In accordance with applicable regulations, the Township Board shall review the application, and the final development plan, and the report of the Planning Commission, and shall deny, approve, or approve with conditions, the requested PUD.

   Any conditions imposed with respect to approval shall be recorded in the record of the approved actions, and shall remain unchanged except as provided by law. The approved development plan shall constitute the zoning of the property, and it can only be developed in accordance with the approved plan, any text that was incorporated as a component of the plan and any conditions that were included in the final approval.

SECTION 5.06 CHANGE IN PLAN

Subsequent to zoning approval by the Township Board, no change in the development plan shall be made without Planning Commission approval. Approval of a change in the development plan which conforms to the zoning ordinance may be granted by the mutual agreement of the landowner and the Planning Commission.

If the Planning Commission does not approve such change in the development plan, the landowner may seek approval of the proposed change in accordance with the procedures established in Section 5.05 of the Ordinance.

SECTION 05.07 BOARD OF APPEALS ACTION

The Board of Appeals is without jurisdiction to accept appeals or grant variances from the regulations of the PUD District.

CHAPTER SIX. SPECIFIC USE REQUIREMENTS

SECTION 6.01 INTENT

This section contains specific regulations for principal uses. These regulations apply in addition to other regulations in this Ordinance. These regulations are intended to ensure that as land is developed for the uses included in this Section, site location, site layout, buffering and various other issues related to ensuring compatibility with adjacent property and minimizing nuisances are achieved through the application of performance standards particular to each use.

SECTION 6.02 TYPES OF USE REGULATIONS

A. **Permitted by Right with Conditions** are those uses permitted by right in a particular district, provided that the use-specific standards of this Chapter are complied with. If site plan review is not required, the decision to approve, approve with conditions or deny a use by right with conditions is made by the Zoning Administrator. If a site plan review is required the decision to approve, approve with conditions or deny is made by the Planning Commission.

B. **Special Use Permits** are those uses permitted in a particular district, provided that the use-specific standards of this Chapter are complied with along with the discretionary standards of Chapter Seven. All special uses must meet the site plan review standards of Chapter Eight.

C. **Uses Permitted by Planned Unit Development** are those uses permitted in a particular district, provided that the use specific standards of this Chapter are complied with along with the discretionary standards of Chapter Five, Planned Unit Development and the site plan review standards of Chapter Eight.

SECTION 6.03 ADULT CAMP

This use shall be subject to the following:

A. The facility shall comply with appropriate State of Michigan licensing requirements.

B. Adequate off-street parking shall be provided.

SECTION 6.04 ADULT ENTERTAINMENT ESTABLISHMENT

This use shall be subject to the following:

A. The application shall include a detailed statement indicating all federal, state and county regulations that apply to the particular site or activity, a copy of the proposed regulations and a statement indicating the proposed method of complying with each regulation.

B. The minimum lot size is 2 acres.

C. The minimum lot width is 200 feet.

D. The minimum side yard is 50 feet.

E. The minimum rear yard is 50 feet.

F. No part of the proposed site shall be within a 300-foot radius of any zoning district in which single-family dwellings are permitted unless specifically waived by the Planning Commission.

G. The proposed use shall not be located closer than 1,000 feet to any existing adult entertainment establishment provided this restriction may be waived by the Planning Commission if:
   1. The proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this section will be observed.
   2. That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area in its immediate surroundings.

H. Fencing and/or greenbelts may be required if the Planning Commission determines that they are necessary to prevent adverse impacts on adjacent properties.

I. The Planning Commission may impose such additional conditions as it determines are necessary to protect the health, safety and welfare of users of the proposed facility and other properties in the vicinity of the proposed use.

SECTION 6.05 FOSTER FAMILY GROUP DAY CARE HOMES

This use shall be subject to the following:

A. The size, character and architectural nature of the dwelling and associated structures shall be compatible and harmonious with other properties within the vicinity.

B. The hours of operation shall be between 6:00 AM and 9:00 PM.

C. The minimum lot size is one (1) acre.

D. The minimum lot width is 200 feet.

E. The parcel must front a state highway or county primary or secondary road as designated by the Bay County Road Commission.

F. The facility shall be designed and operated in a manner that will minimize any detrimental effects on surrounding properties.

G. Adequate off-street parking must be provided.

H. A drop-off/pick up area shall be provided for motorists off the public street which permits vehicles to exit the property without backing onto the street.

I. Any outside play area shall be in the rear yard area and completely enclosed with a fence which is deemed adequate by the Planning Commission.

SECTION 6.06 ADULT FOSTER CARE LARGE GROUP HOMES

This use shall be subject to the following:

A. The facility shall comply with appropriate State of Michigan licensing requirements.

B. The facility shall not be located closer than 1,500 feet to any of the following:
   1. Another licensed group child care home.
   2. An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, Public Act 218 of 1979, MCL 400.701 to 400.737.
   3. A facility offering substance use disorder services to 7 or more people that is licensed under part 62 of the public health code, Public Act 368 of 1978, MCL 333.6230 to 333.6251.
   4. A community correction center, resident home, halfway house, or other similar facility that houses an inmate population under the jurisdiction of the department of corrections.

C. Maintains the property consistent with the visible characteristics of the neighborhood.

D. Adequate off-street parking shall be provided.

E. The facility shall not exceed 16 hours of operation during a 24-hour period.

F. Any outside play or recreational area shall be in the rear yard area and completely enclosed with a fence which is deemed adequate by the Planning Commission.

SECTION 6.07 AUCTION BUSINESS

This use shall be subject to the following:

A. The application shall include a detailed statement indicating all federal, state and county regulations that apply to the particular site or activity, a copy of the regulation and a statement indicating the proposed method of complying with each regulation.

B. The minimum lot size is 3 acres.

C. The minimum lot width is 300 feet.

D. The parcel must front on a state highway or a county primary road as designated by the Bay County Road Commission and primary access to the site shall be directly from said streets.

E. No building in which propane tanks or ammunition are kept or stored shall be located closer than 300 feet from any zone district within which residential dwellings can be located.

F. The minimum front, rear and side yard setback is 100 feet.

G. Fencing and/or greenbelts may be required if the Planning Commission determines that they are necessary to prevent adverse impacts on adjacent properties.

H. The Planning Commission may impose such additional conditions as it determines are necessary to protect the health, safety and welfare of users of the proposed facility and other properties in the vicinity of the proposed use.

SECTION 6.08 AUTOMOBILE CAR WASH

This use shall be subject to the following:

A. Vacuuming and drying areas may be located outside the building but shall not be in the required front or side yard areas.

B. All cars required to wait for access to the facilities shall be provided space off the street right-of-way.

C. Access points shall be located at least two hundred (200) feet from the intersection of any two (2) streets.

D. One (1) traffic lane shall be provided as a means of exiting the facility without having to enter the car wash building; such lane to be in addition to those which would be used by customers obtaining gasoline and waiting in line for the car wash. Said lane shall not be counted as part of the required parking space.

E. All buildings, vehicular stacking space, vacuuming; or other outside use area, except employee parking, shall have a minimum setback of one hundred (100) feet from a Residential District, unless the district is separated by a public street.

SECTION 6.09 AUTOMOBILE REPAIR, BODY SHOPS, AND WRECKER SERVICES

These uses shall be subject to the following:

A. All repair work must be carried out within an enclosed building.

B. No outdoor storage of scrap or junk cars, spare parts, or dismantled cars shall be permitted.

C. Damaged vehicles awaiting repair may be stored outside of a building provided that the area for storage is enclosed within a six (6) foot high obscuring, masonry wall or fence.

D. All buildings shall have a minimum setback of one hundred (100) feet from any Residential District unless the district is separated from the use by a public street.

SECTION 6.10 AUTOMOBILE SERVICE STATIONS

This use shall be subject to the following:

A. All buildings and structures shall have a minimum setback of one hundred (100) feet from any Residential District unless the district is separated from the use by a public street.

B. Pump islands shall be located no closer than twenty-five (25) feet from the required front yard bufferstrip.

C. The pump island shall be no closer than fifteen (15) feet from the required front yard bufferstrip.

D. All repair, lubrication, and service work shall be done within an enclosed building.
E. All storage and display of equipment, materials, and merchandise, with the exception of fuel, shall be within the building.

F. All outside storage areas for trash, used tires, auto parts, and similar items shall be enclosed by a six (6) foot high solid wall or fence.

G. No more than two (2) curb cuts shall be constructed to provide ingress and egress.

SECTION 6.11 BATTERY ENERGY STORAGE SYSTEMS (BESS)

A. **Purpose.**
The purpose of this ordinance is to establish standards for the siting, installation, operation, and repair of Battery Energy Storage Systems in the Township.

B. **Applicability.**
Battery Energy Storage Systems may be allowed as a special use permit within the AE Zoning District, subject to the regulations and requirements of this Section and the general special use procedures, standards, and criteria of Chapters 14 and 15 of this Zoning Ordinance.

C. **Special Use Permit and Application Escrow.**
A special use permit is required for any utility-scale Battery Energy Storage System to be installed and operated within the Township.

An escrow account shall be funded by an applicant when an applicant applies for a special use permit for a BESS. The monetary amount placed by the applicant in escrow with the Township shall be estimated by the Township to cover all reasonable costs and expenses associated with the zoning review and approval process (including site plan review), which costs include, but are not limited to, reasonable fees of a Township attorney, planner, and/or engineer, as well as costs for any other outside consultants or reports or studies that the Township determines are reasonably related to the zoning review process for a particular application. Such escrow amount shall be in addition to any non-refundable application fees determined by the Township. At any point during the zoning review process, the Township may require that the applicant place additional monies in escrow with the Township should the existing escrow amount filed by the applicant be insufficient. If the escrow account needs replenishing and the applicant refuses to do so within 45 days, the zoning review and approval process shall cease until and unless the applicant makes the required escrow deposit. Such application escrow shall be held by the Township Treasurer in a separate bank account, and upon completion of Township zoning review, all excess escrow funds must be returned to an applicant without interest.

D. **System Standard.**
BESS shall be designed and constructed in accordance with the NFPA (National Fire Protection Association) 855 standard including as may be periodically updated.

E. **Certified Components.**
Components of a BESS shall be approved prior to commencement of operation, as outlined by this section. The system and its components and equipment shall be listed by the nationally recognized testing laboratory, UL (Underwriters Laboratories) 9540 (standard for battery energy storage systems and equipment) or applicable nationally recognized standard with subcomponents meeting each of the following standards as applicable.

1. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications)
2. UL 1642 (Standard for Lithium Batteries)
3. UL 1741 or UL 62109 (Inverters and Power converters)
4. Certified under the applicable electrical, building, and fire prevention codes as required.
5. Any applicable subcomponent standards as required or industry standard for BESS components.

Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 and applicable codes, regulations and safety standards may be used to meet system certification requirements.

F. **Safety.**

1. All applicants shall include a detailed safety plan in a special use permit application. Such a plan shall include, but not be limited to:
   a. Preliminary design with locations and descriptive details regarding components relating to fire prevention and detection and to explosion control.
   b. Information regarding equipment designed for providing proper temperature control recommended for safe operation of batteries.
2. All BESS shall be equipped with safety systems as outlined below:
   a. Hazard detection system.
   b. Explosion detection system.
3. Structures within a BESS shall be surrounded by bollards installed in such a manner to prevent vehicle impacts.
4. A BESS owner or operator shall provide an emergency operations plan and orientation for the Portsmouth Township Fire Department and any other applicable emergency responders to the Township before the beginning of commercial operation of the facility. The owner and operator shall coordinate with the entities above for further training and best practices for fighting fires and shall identify and prepare a plan to provide emergency service providers with further requisite training and/or equipment as needed to serve the emergency response needs of a BESS. In addition, the Fire Chief must approve the fire protection plan.
5. BESS owners and operators shall establish a fire department access system for emergency off-hours access by emergency personnel. They shall also maintain access to the BESS by snowplowing and maintaining all vehicle and pedestrian access pathways in a timely manner.

6. The BESS shall be adequately signed according to American National Standards Institute (ANSI) Z535, Section 4.7.4 or other applicable national standard or practice. This shall include providing emergency responders information about the batteries and other hazardous contents and potential risks within the system.
7. The Planning Commission may require, as a condition of a special use permit, for the owner of the facility to provide a specific amount of funding to the Portsmouth Township Fire Department for any special firefighting equipment designed to extinguish the type of fire that may be involved with the type of batteries used in the BESS.
8. A security fence that meets the requirements of the National Electrical Code shall be placed around the perimeter of the BESS and electrical equipment.

G. **Setbacks.**
1. For occupied community buildings and dwellings on nonparticipating properties, the setback distance shall be 300 feet from the nearest point on the outer wall.
2. For nonparticipating properties, the setback distance shall be 50 feet measured from the nearest nonparticipating property line.
3. From public road rights-of-way, the setback distance shall be 50 feet measured from the nearest edge of a public road right-of-way.
4. Fencing and other aspects of the landscaping and screening/buffering plan may be situated within the required setback areas. The BESS owner or operator shall maintain grounds located within setbacks of the facility, either through their own maintenance organization or by allowing the property owner to farm the land.
5. Property line setbacks do not apply to contiguous parcels of properties that have a land agreement or lease to host or benefit from a BESS.

H. **Sound.**
A BESS shall not emit sound exceeding 55dBA Leq (1 hour) at the nearest outer wall of the nearest dwelling located on an adjacent non-participating property.
1. Sound testing (e.g., a post-construction sound study), or industry equipment documentation documenting sound emissions shall be required for each application and must be performed by a qualified third-party firm approved by the Township and paid by the applicant.

I. **Lighting.**
The lighting of the BESS is limited to the minimum light necessary for safe operation. Illumination from any lighting must follow the best practices of the International Dark Sky Association and shall not extend beyond the perimeter of the lot(s) used for the BESS. The BESS must not produce any glare that is visible to neighboring lots or persons traveling on public or private roads.

J. **Landscaping.**
1. Applicants shall submit a detailed landscaping plan which shows all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting. The landscape plan shall be prepared by a licensed professional in the State of Michigan, and plant material shall meet the American Nursery Standards. This plan shall be reviewed through the special use permit approval process to ensure that the proposed facility is appropriately landscaped in relation to adjacent land uses and roads rights-of-way.
2. A BESS must have a landscape buffer. The buffer shall be located outside of any perimeter fencing associated with the land use. The buffer shall contain a mix of native deciduous and evergreen plant material and be at least five (5) feet in height at the time of installation. The Planning Commission may also allow the use of existing vegetation to serve as a landscape buffer. These landscaping requirements may be modified at the request of the applicant and at the discretion of the Planning Commission.
3. Vegetation used by the BESS owner or operator as a buffer shall be maintained with good husbandry techniques such as, but not limited to, proper pruning, fertilizer, and mulching so that the vegetation will reach maturity as soon as practical with the maximum density of foliage. Dead or diseased vegetation shall be removed and must be replanted at the next appropriate planting season. Plants or grasses not part of the required landscaping buffer shall be maintained and may not exceed twelve (12) inches in height unless approved by the Planning Commission. The applicant must provide a detailed maintenance plan for the proposed BESS, and surrounding area, including maintenance for natural vegetation.

K. **Underground Transmission.**
All power transmission or other lines, wires, or conduits from a BESS to any building or other structure must be located underground at a depth that complies with the current National Electric Code standards, except for power switchyards or the area within a substation.

L. **Drain Tile Inspections.**
1. The BESS must be maintained in working condition at all times while in operation. The applicant or operator must provide documentation that demonstrates a BESS will not cause unreasonable impacts to public or private drainage systems on properties hosting improvements or properties adjacent or nearby to a proposed BESS. This includes preventing the flow of stormwater onto adjacent non-participating properties. Documentation must include maps of all known private drain tile on lands that will host BESS improvements and a detailed plan to restore impacted private drain tile at the time of decommissioning the BESS.
2. Given the proximity of the Township to Saginaw Bay and understanding that public drains run into the Bay, the Applicant shall provide proof that in the event of a fire or similar catastrophic event, that contaminants will be contained onsite.

M. **Environmental Regulations.**
The BESS must comply with applicable state or federal environmental regulations.

N. **Final Design.**
The final design of a BESS shall be submitted prior to the beginning of commercial operation of the facility.

O. **Transfer of Facility Ownership/Operation.**
The Township shall be notified of any intent to transfer the ownership of the BESS and reassignment of a special use permit. The current facility owner or operator shall provide written notice to the Planning Commission at least sixty (60) days prior to when an agreement to change the ownership of the facility becomes effective. This notice shall inform the Planning Commission of the intended transfer of control of the BESS. Such an instrument or agreement shall include an express statement that the new owner or operator of the BESS shall not be permitted to operate that facility until compliance with the terms of this ordinance have been met, including requirements for a decommissioning security.

P. **Insurance.**
The applicant or operator will maintain property/casualty insurance and general commercial liability insurance in an amount of at least $5 million per occurrence. The Township shall be listed as an additional insured on the policy at all times.

Q. **Conditions.**
The Planning Commission may impose additional reasonable conditions for the approval of a BESS as conditions on a special use permit or site plan.

R. **Complaint Resolution.**
Applicants shall develop a process to resolve complaints from adjacent residents and/or property owners concerning the construction and operation of the BESS. This process shall include a time limit for acting on a complaint. This process must be approved as a part of the application process. The process shall not preclude the Township from acting on the complaint. During construction and operation, the applicant shall maintain a telephone number during business hours where the adjacent residents and/or property owners can reach a project representative.

S. **Enforcement.**
1. Any person, entity, or corporation violating any of the provisions of this section is responsible for a municipal civil infraction and all other penalties as provided in the Portsmouth Charter Township Zoning Ordinance or under Michigan law and all other consequential damages incurred by the applicant.

2. The Township Zoning Administrator shall have the right to inspect the premises on which a BESS is located upon providing the owner or operator of the BESS 48-hour notice of the planned inspection to the operator of the facility. The Township may hire one or more consultants to assist with any such inspections, at the expense of the facility owner/operator.
3. False report of official complaint: Any person who intentionally makes a false complaint or intentionally causes a false report of a complaint of a violation of this section to the official in charge of enforcing this ordinance, knowing the report is false, is guilty of a municipal civil infraction.
4. If the Township Zoning Administrator determines that a BESS fails at any time to meet the requirements of the Zoning Ordinance, special use permit, or site plan approval, or that it poses a potential safety hazard as defined above, the facility owner or operator shall shut down the BESS within forty-eight (48) hours after notice by the Zoning Administrator, and not operate, start, or restart the BESS until an identified issue has been corrected.

T. **Decommissioning.**
The project shall be decommissioned if for twelve (12) months the project has not been in operation, or if the Zoning Administrator determines that the project is no longer being maintained in an operable state of good repair. The decommissioning may be postponed by the Planning Commission upon presentation of substantial evidence of the intent to maintain and reinstate operation of the BESS. If decommissioning is triggered by either of these two conditions, the project owner must remove all equipment, conduit, structures, fencing, roads, and foundations within six (6) months of notice to decommission from the Zoning Administrator. The site must be restored to original condition by filling with top soil and restoring to a state compatible with the surrounding vegetation. Roads or access drives may remain in place following decommissioning upon presentation of a signed agreement to that effect by the property owner. The applicant must obtain a receipt of a demolition permit from the Building Official. If the owner of the project or the underlying property owner fails to remove or repair any defective, abandoned or terminated project, the Township, in addition to any other remedy under this Ordinance, may pursue legal action to abate the violation by seeking to remove the project and recover any and all costs, including attorney fees.

U. **Extraordinary Events.**
If the BESS experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the applicant or operator must notify the Township within 24 hours.

V. **Annual Report.**
An annual report must be submitted on or before January 1st each year that includes the following:
- Current proof of insurance;
- Verification of financial security; and
- A summary of all complaints, complaint resolutions, and extraordinary events.

W. **Continuing Security and Escrow Deposit.**

If any BESS is approved under the Zoning Ordinance, the applicant shall be required to post continuing security and a continuing escrow deposit prior to commencement of construction, which shall remain in effect until the BESS has been finally decommissioned as provided below.

1. Continuing Security: If a special use permit is approved pursuant to this section, the Planning Commission shall require security in the form of an irrevocable letter of credit, corporate bond, or surety bond in a form, amount, time, duration deemed acceptable to the Township which will be furnished by the applicant to the Township in order to ensure full compliance with this section and any conditions of approval. Such financial security may not credit salvage value of the BESS and its components to lower the amount of the financial security. When estimating the amount of such required security, the Township may also require an annual escalator or increase based on the Consumer Price Index (or the equivalent or its successor). Such financial guarantee shall be deposited or filed with the Township Clerk after a special use permit has been approved but before construction commences upon the BESS. At a minimum, the financial security shall be in an amount determined by the Township to be reasonably sufficient to have each BESS fully removed (and all components properly disposed of and the land returned to its original state) should such structures become abandoned, dangerous, or obsolete, or not in compliance with this ordinance or the special use permit. Such financial security shall be kept in full force and effect during the entire time while a BESS exists or is in place, and such financial security shall be irrevocable and noncancelable (except by the written consent of both the Township and the then-owner of the BESS).
2. Continuing Escrow Deposit: A continuing escrow deposit to be held by the Township shall be funded in cash by the applicant prior to the commencement of construction of any BESS and shall be maintained by the BESS owner until the BESS has been permanently removed. The monetary amount placed by the applicant in escrow with the Township shall be estimated by the Township to cover all reasonable costs and expenses associated with continuing enforcement of this Ordinance and the terms of the special use permit, which costs can include, but are not limited to, reasonable fees of the Township Attorney, Township Planner, and Township Engineer, as well as costs for any reports or studies which the Township anticipates it may have done that are reasonably related to enforcement of the Ordinance and the special use permit. If the Township is required to expend any portion of the escrow deposit, or if the existing escrow amount paid by the applicant proves to be insufficient to cover the Township's enforcement costs, the Township may require that the BESS owner place additional monies into escrow with the Township. Alternatively, if lawful, applicant will pay permit fees equivalent to estimate of all reasonable costs and expenses associated with continuing enforcement of this Ordinance and the terms of the special use permit, which costs can include, but are not limited to, reasonable fees of the Township Attorney, Township Planner, and Township Engineer, as well as costs for any reports or studies which the Township anticipates it may have done that are reasonably related to enforcement of the Ordinance and the special use permit. As for the escrow requirement, this permit fee will also include a replenishment

obligation if the permit fees paid by the applicant prove to be insufficient to cover the Township's enforcement fees, costs, and expenses.

3. Continuing Obligations: Failure to keep such financial security and escrow deposit in full force and effect at all times while a BESS exists or is in place shall constitute a violation of the special use permit and this Ordinance and will subject the BESS owner to all remedies available to the Township, including possible enforcement action and revocation of the special use permit or site plan approval.

X. **Community Agreement.**
The applicant shall enter into a host community agreement with the Township. The host community agreement shall require that, upon commencement of any operation, the BESS owner must pay the Township $2,000.00 per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or other projects as agreed to by the Township and the applicant.

Y. **Community Impact Analysis.**
Applicants for a BESS shall submit a document that identifies impacts of a proposed project on community resources and services, including, but not limited to, roads, fire protection (including any necessary training or equipment), police protection, emergency medical services, and public drainage systems including culverts. Applicants shall demonstrate in an application for a BESS how they will ensure impacts from a proposed project on community resources and services will be addressed by the applicant and not be borne on the Township.

Z. **Ordinance Requirements.**
Requirements imposed in this section shall be in addition to any further requirements imposed on Battery Energy Storage Systems by other Township ordinance or the Zoning Ordinance, generally. If there is a conflict between any of these provisions with another ordinance, the language of the more restrictive ordinance shall govern.

AA. **Local, State and Federal Permits.**
Battery Energy Storage Facilities shall be required to obtain all necessary permits and licensing from Portsmouth Charter Township, Bay County, State of Michigan and United States Government as applicable prior to construction and shall maintain any necessary approvals as required by the respective jurisdictions or agencies.

SECTION 6.12 BOWLING ALLEY, INDOOR ARCHERY RANGE, INDOOR TENNIS COURTS, INDOOR SKATING RINK, OR SIMILAR FORMS OF INDOOR COMMERCIAL RECREATION

These uses shall be subject to the following:

A. All buildings shall have a minimum setback of one hundred (100) feet from any Residential District unless the district is separated from the use by a public street.

SECTION 6.13 CEMETERIES

This use shall be subject to the following:

A. The minimum lot size is 20 acres.

B. The minimum lot width is 300 feet.

C. The parcel shall have at least one property line that abuts a state highway or county primary road as designated by the Bay County Road Commission and primary access to the facility shall be directly from said streets.

D. The applicant must be able to demonstrate that the proposed use will not create traffic congestion or cause undue traffic safety problems.

E. Adequate off-street parking shall be provided in accordance with the requirements of Chapter 9.

F. Fencing may be required if deemed necessary by the Planning Commission.

G. The minimum front yard setback is 75 feet.

H. The minimum side and rear yard setback is 25 feet.

I. No grave site shall be located in any front, side or rear yard setback area.

SECTION 6.14 CHILD CARE CENTER

This use shall be subject to the following:

A. The facility shall comply with appropriate State of Michigan licensing requirements.

B. The size, character and architectural nature of the building and associated structures shall be compatible and harmonious with other properties in the vicinity.

C. The minimum lot size is two (2) acres.

D. The minimum lot width is 200 feet.

E. The parcel must front on a state highway or a county primary or local road as designated by the Bay County Road Commission.

F. The building shall have a minimum front setback of 60 feet and minimum side yards of 25 feet each.

G. Adequate off-street parking shall be provided.

H. A drop-off/pick up area shall be provided for motorists off the public street which permits vehicles to exit the property without backing onto the street.

I. Any outside play or recreational area shall be in the rear yard area and completely enclosed with a fence which is deemed adequate by the Planning Commission.

SECTION 6.15 CHURCHES

This use shall be subject to the following:

A. The size, character and architectural nature of the building and associated structures shall be compatible and harmonious with other properties in the vicinity.

B. The minimum lot size is three (3) acres.
C. The minimum lot width is 300 feet.

D. The minimum front, rear and side yard setback is 75 feet.

E. The parcel shall have at least one property line that abuts a state highway or county primary road as designated by the Bay County Road Commission and primary access to the facility shall be directly from said streets.

F. The applicant must be able to demonstrate that the proposed use will not create traffic congestion or cause undue traffic safety problems.

G. Adequate off-street parking shall be provided in accordance with the requirements of Chapter 9.

H. Fencing and/or greenbelts may be required along side and rear property lines if the Planning Commission determines that they are necessary to prevent adverse impacts on adjacent properties.

SECTION 6.16 COMMUNICATION TRANSMITTERS, RELAY STATIONS, AND TOWERS

These uses shall be subject to the following:

A. The tower shall be completely enclosed by a fence deemed adequate by the Planning Commission to prevent unauthorized access.

B. The applicant shall submit certification from qualified engineers that the design of the tower is sufficient to ensure safety.

C. The distance from the base of the tower to all property lines shall equal or exceed the height of the tower unless the engineering plans clearly indicate that the tower is designed to collapse, in which case the setbacks shall be based on the engineering design.

D. The applicant shall demonstrate that the types of signals to be received or transmitted will not cause interference with common household types of appliances such as radios, television sets, handheld phones, personal computers, and pagers.

E. **Aesthetics.** Towers and antennas shall meet the following requirements:
   1. Finish and Color of Towers: Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of FAA, be painted a neutral color so as to reduce visual obtrusiveness.
   2. Blend with Setting: At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
   3. Color of Antenna: If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
   4. Lighting: Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

F. **State and Federal Requirements.** All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas.

G. **Factors Considered in Granting Special Use Permits for Towers.** In addition to any standards for consideration of special use permit applications, the Planning Commission shall consider the following factors in determining whether to issue a special use permit, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this Ordinance are better served thereby:
   1. Height of the proposed tower;
   2. Proximity of the tower to residential structures and residential district boundaries;
   3. Nature of uses on adjacent and nearby properties;
   4. Surrounding topography;
   5. Surrounding tree coverage and foliage;
   6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
   7. Proposed ingress and egress.

H. Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to any property line than the minimum front yard requirement for the appropriate zoning district as found in Section 5.04.

I. Accessory structures shall not exceed six hundred (600) square feet of gross building area.

J. All towers shall be equipped with an anti-climbing device to prevent unauthorized access.

K. Communications towers in excess of one hundred (100) feet in height above ground level shall be prohibited within a two (2) mile radius of a public or private airport or ½ (one-half) mile of a helipad.

L. Metal towers shall be constructed of, or treated with, corrosive-resistant material.

M. Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply to electric wiring and connections with all applicable local statutes, regulations and standards.

N. Towers with antennae shall be designed to withstand a uniform wind loading.

O. All signals and remote control conductors of low energy extending substantially horizontally above ground between a tower or antenna and a structure, or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.

P. Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned and or leased by the applicant.

Q. The base of the tower shall occupy no more than five hundred (500) square feet.

R. Minimum spacing between tower locations shall be two (2) miles in order to prevent a concentration of towers in one area.

S. Existing on-site vegetation shall be preserved to the maximum extent practicable; provided, however, that the property owner shall fully comply with all relevant provisions of the Township Anti-Blight Ordinance and Township Weed Ordinance.

T. There shall not be displayed advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.

U. There shall be no employees located on the site on a permanent basis to service or maintain the communications tower. Occasional or temporary repair and service activities are permitted.

V. The policy of the community is to minimize the number or communications towers in the Township. Therefore, the Township shall require the co-location of communication towers. Pursuant to this policy, the following standards apply to communication towers:
   1. All new designed and modified communication towers shall be designed and constructed so as to accommodate co-location.
   2. A special use permit for the construction and use of a new communication tower shall not be granted unless and until the applicant is not available for the coverage area and capacity needs.

W. The application shall include a description of security to be posted at the time of receiving a building permit for the communication tower to ensure removal of the facility when it has been abandoned or is no longer needed. In this regard, the Township Planning Commission shall specify the form of security and recordable at the office of the Bay County Register of Deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section, with the further provisions that the applicant and owner shall be responsible for the payment of any costs and attorney's fees incurred by the community in securing removal.

X. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.

SECTION 6.17 COMPOSTING FACILITIES

This use shall be subject to the following:

A. A site plan meeting the minimum requirements of Section 8.05(B) and the following:
   1. A full legal description of the premises wherein the operation is proposed.
   2. A detailed proposal disclosing the limits of the area proposed for the operation, to include the maximum depth of any excavation or fill area, proposed finish grade, and the manner in which the land will be restored following the termination of the operations so the land will not remain devastated beyond any reasonable use.
   3. Detailed information as to the method of operation, type of machinery and equipment to be used.
   4. If on site soils are being blended with compost to produce finished products a topographic survey map on a scale not less than one (1) inch equaling 100 feet, showing on a five (5) foot interval, existing grades of the proposed excavation and the finished grades. The perimeter of each phase to be excavated will be specifically defined on the topographic map. No use of land will be allowed outside of agreed upon perimeters, including, excavating of any kind or storage of equipment or any debris such as trees or stumps. The topographic map shall be amended annually to include the proposed area to be excavated in each phase. Said map to be prepared and sealed by a registered civil engineer or land surveyor.
   5. An estimated period of time such operation will take if it is not intended to be an on-going operation.
   6. Detailed information regarding the type of material to be deposited on the site such as leaves and grass clippings and an estimate of the total cubic yards to be deposited on an annual basis. No contaminated or hazardous material shall be delivered to the site unless it is disclosed and approved as part of the original special use permit or an amendment.
   7. A detailed explanation of the procedures that will be taken to prevent odors and methods that will be used to eliminate odor problems should they occur.
   8. Names and addresses of parties of interest in said premises and their legal interest, along with telephone numbers of responsible persons involved in said operations, who may be reached between 8:00 AM and 5:00 PM daily, as well as hours after daily operations, shall be contained in one document and submitted to the Township Clerk and the Township Inspector and the appropriate emergency services.

B. The minimum lot size is 20 acres.

C. The parcel must have a minimum of 300 feet of frontage on a state highway or county primary road as designated by the Bay County Road Commission.

D. Routes for trucks hauling materials to the site or products from the site shall be approved by the County Road Commission under such conditions and securities as may be imposed by the Township or County to protect or repair the roads and to ensure the safety of the public.

E. No finished slopes shall at any time exceed 33 1/3 percent.

F. No excavation other than those which are incidental to building, structure or public utility construction, shall be permitted below the grade of any adjoining public street or abutting property under different ownership for a distance of not less than 75 feet with final setback determined by the Planning Commission subject to the site plan information submitted.

G. A 50-foot-wide greenbelt shall be preserved as part of the 75-foot setback, developed and maintained around the perimeter of the mining property to provide noise and dust protection. In the absence of an adequate greenbelt, a combination of shrubs and earth berm 6 feet to 8 feet in height may be required, depending on the adjoining property protection needs and wind direction.

H. The processing plant, if any, and its accessory structures shall not be located closer than 200 feet from property lines and public right-of-way or less than 500 feet from any residence and shall, where practicable, be as close to the center of the subject property as possible. The Planning Commission reserves the right to approve the location of the plant.

I. No dust, dirt or debris emanating from the operation shall at any time be permitted to be deposited upon adjoining premises to such an extent as to be a nuisance or annoyance to the occupants thereof.

J. No processing shall be permitted at any time prior to 7:00 AM and subsequent to 5:30 PM daily. Maintenance and repair shall be permitted between 7:00 AM and 7:00 PM. No operations shall be allowed on Sundays or legal holidays.

K. To avoid being a nuisance or annoyance, noise levels shall not exceed 65 decibels at any residence or permanent dwelling.

L. No natural drainage shall be materially changed or altered in any manner that would adversely affect adjoining premises. Adequate drainage facilities shall be provided to prevent standing water ponds.

M. No excavation shall take place within 500 feet of the margin of any stream or waterway unless previously approved, in writing, by the Michigan Department of Natural Resources. The Planning Commission shall have the right to require an applicant to construct adequate sediment basins if it appears that substantial sediment may be carried into any nearby water course.

N. Special use permits granted herewith may be limited in time, subject to review by the Planning Commission.

O. No composting operation covered by this Ordinance shall be commenced, or shall hereafter continue, until a performance bond has been filed with the Township Clerk in the amount of not less than $3,000 per acre contained in that portion of the plan required to be filed with the Township under Paragraph one being proposed to be used within the ensuing 12 month period, guaranteeing the satisfactory performance of all the regulations herein contained. Such bond shall, at no time, be less than $3,000. No performance bond filed with the Township shall be released until all Ordinance regulations have been fully complied with including restoration.

P. All applicants shall be required to carry personal injury property damage insurance, while the facility is being operated, in the amount $1,000,000 for each occurrence. Such insurance shall cover injury or damage occurrence upon the site of the operations as well as upon properties adjoining thereto, as the result of conditions or activities existing upon the site. Such policies shall be filed with the Township Clerk.

Q. Due to the unusual problems and time required for the inspection and monitoring of a composting operation, a reasonable fee may be required to be deposited with the Township Clerk. The fee shall be based on an estimate of the cost to monitor and inspect the site in order to determine if there is compliance with the requirements of the permit. The fee may include the cost of inspectors, surveyors, engineers, attorneys and other required professionals. The Township shall provide the applicant with an accounting of all disbursements. If an additional deposit is required it shall be submitted within 30 days of a written request and any unused portion of the fee shall be returned to the applicant upon the completion of all activities.

R. Sufficient off-street parking shall be required on the site for trucks servicing the operation. No parking will be allowed on the roadside of road right-of-way. To minimize the potential for fuel spills, and possible soil contamination during equipment and truck refueling, an on-site refueling area shall be required for use with either fuel pumper trucks, or on-site fuel storage tanks. Said area shall be placed as a catch basin, capable of containing any fuel spillage. The basin shall be bermed, rubber lined and equal to the size of the storage tank. A remediation plan shall be submitted to the Township and the appropriate fire department. Caution or truck crossing signs shall be provided on public roads, measuring at least 3 feet square to identify truck entrances and exits. Said entrances and exits shall be repaired and maintained by the mining operator to ensure safety and visibility. Dust, loose gravel, mud and chuckholes all create dangerous and hazardous road conditions. If any of these conditions exist, they shall be alleviated daily. A stop sign shall be erected and maintained by the owner/operator at all egress roads of the disposal area. Under no circumstances shall trucks use private drives or private access routes from the applicants' property which are within 150 feet of any residence.

S. A pre-startup meeting shall be instituted at least one week prior to the start of operations which shall include the Chairperson of the Planning Commission, a representative of the Township Board, the operations on site foreman and the appointed Township Inspector. A prestart up meeting shall be required for each phase of the remaining years of a permit to allow review of the permit requirements, zoning ordinances and any other issues. The operator is required to present proof of all documents as determined by the Ordinance and the Planning Commission prior to the prestart up meeting before receiving the Special Use Permit. No permit shall be granted until the applicant has satisfied all prerequisites, and the prestart up committee has reviewed and approved them. No activity will be allowed on site until such time as all criteria have been met and the permit has been issued.

T. The following procedures shall be imposed for violation of the Ordinance or conditions of the permit:
   1. First Offense – a verbal warning followed by a written notice of the violation with a specified time limit in which to comply, not-to-exceed one working day. Failure to comply in the stated time results in a second offense.
   2. Second offense of same violation – stop work order followed by a written notice of the violation. Stop work order continues until the violation is corrected or the mining operation submits in writing their plan to remedy the violation.
   3. Third offense of same violation – stop work order followed by written notice of violation. Stop work order continues until Planning Commission can schedule a hearing. The chairperson of the Planning Commission will call a special meeting within two days of issuance of the stop work order.

SECTION 6.18 CONTRACTOR STORAGE YARDS AND TRUCK FREIGHT TERMINALS AND YARDS

Any outside storage area within these uses shall comply with the following standards:

A. There shall be no outside storage within any required front yard.

B. Except for the front yard, the entire site shall be enclosed with a six (6) foot high cyclone fence or other type approved by the Zoning administrator.

C. Any building or storage area shall have a minimum setback of 100 feet from any residential district unless the district is separated from the use by a public street.

D. The outside stacking or stockpiling materials shall not exceed eight (8) feet above grade and shall be screened from any public street right-of-way by the placement of a ten (10) foot wide bufferstrip along the entire length of the street frontage in accordance with the requirements of Chapter 10.

E. A ten (10) foot wide greenbelt shall be placed along any property or street right-of-way line that is adjacent to any residential district.

F. Any access drives and parking areas shall be constructed in accordance with the off-street parking requirements in Chapter 9, and any storage areas shall be graded, adequately drained, and surfaced or treated to control dust.

SECTION 6.19 CONVALESCENT HOMES

This use shall be subject to the following:

A. The facility shall comply with appropriate State of Michigan licensing requirements.

B. The size, character and architectural nature of the building and associated structures shall be compatible and harmonious with other properties in the vicinity.

C. The minimum lot size is two (2) acres.

D. The minimum lot width is 200 feet.

E. The parcel must front on a state highway or a county primary or local road as designated by the Bay County Road Commission.

F. The building shall have a minimum front setback of 60 feet and minimum side yards of 25 feet each.

G. Adequate off-street parking shall be provided.

H. A drop-off/pick up area shall be provided for motorists off the public street which permits vehicles to exit the property without backing onto the street.

I. Any outside play or recreational area shall be in the rear yard area and completely enclosed with a fence which is deemed adequate by the Planning Commission.

SECTION 6.20 DATA CENTER

The purpose of this Ordinance is to establish standards for the siting, installation, operation, and repair of Data Center in the Township. This use shall be subject to the following:

A. **Application Escrow.** An escrow amount shall be funded by an applicant when an applicant applies for a special use permit for a Data Center. The monetary amount placed by the applicant in escrow with the Township shall be estimated by the Township to cover all reasonable costs and expenses associated with the zoning review and approval process (including site plan review), which costs include, but are not limited to, reasonable fees of a Township attorney, planner, and/or engineer, as well as costs for any other outside consultants or reports or studies that the Township determines are reasonably related to the zoning process for a particular application. Such escrow amount shall be in addition to any non-refundable application fees determined by the Township. At any point during the zoning process, the Township may require that the applicant place additional monies in escrow with the Township should the existing escrow amount filed by the applicant be insufficient. If the escrow amount needs replenishing and the applicant refuses to do so within 45 days, the zoning review and approval process shall cease until and unless the applicant makes the required escrow deposit. Such an application escrow shall be held by the Township Treasurer in a separate bank account, and upon completion of Township zoning review, all excess escrow funds must be returned to the applicant without interest.

B. **Development Requirements.**
   1. Setbacks:
      a. All improvements shall be setback a minimum of two hundred (200) feet from side and rear lot lines.
      b. All improvements shall be setback a minimum of seventy-five (75) feet from the road right-of-way and include a bufferstrip as identified in Chapter 9 of the Ordinance.
      c. All improvements shall be setback a minimum of five hundred (500) feet from the lot lines of a residential zoning district, or a parcel containing a residential dwelling and include a bufferstrip as identified in Chapter 9 of the Ordinance.
   2. Public water and sewer are required for all data centers. A water and sewer use study shall be conducted and provided to the Township and Utility for review and comment prior to a public hearing.
   3. Any water-cooling system must use closed-loop or recycled systems. Flushing and refills shall be regulated by local authorities.
   4. All requests must detail their anticipated power use and disclose how they will be supplied with power.
   5. Facades visible from public streets or residential zoning districts must break up mass every 100 feet with:
      a. Height changes or step-backs/recesses.
      b. Changes in materials, pattern, texture, or color.
      c. The main entrance must be differentiated.
   6. All cooling, ventilation, and operational equipment must be enclosed or screened from public view.
   7. Battery Energy Storage Systems (BESS) proposed as an accessory to a Data Center must also comply with the specific requirements within the specific use standards identified in Section 6.11, but may be processed under the same special use permit request for a Data Center.

C. **Sound.** A Data Center shall not omit sound exceeding 55dBA Leq (1 hour) measured at the property line to an adjacent non-participating property.
   1. Sound testing documenting sound emissions shall be required for each application and must be performed by a qualified third-party firm approved by the Township and paid by the applicant.
   2. A pre-construction sound model and post-construction sound study, completed within 60-days of occupancy, is required to demonstrate compliance with the Ordinance.

D. **Stormwater.** Documentation shall be provided that demonstrates the data center will not cause unreasonable impacts to public or private drainage systems on properties hosting improvements or properties adjacent or nearby to a proposed data center. At the request of the Planning Commission, documentation could include maps of all known private drain tile on lands where data centers are sited and a detailed plan to restore impacted private drain tile at the time of decommissioning.

E. **Emergency Management Plan.** A Data Center owner or operator shall provide an emergency operations plan and orientation for the Portsmouth Township Fire Department, Township Emergency Services, and any other applicable emergency responders to the Township before the beginning of commercial operations of the facility. The owner and operator shall coordinate with the entities above for further training and best practices for fighting fires and shall identify and prepare a plan to provide emergency service providers with further requisite training and/or equipment needed to serve the emergency response needs of the Data Center facility. The plan must be reviewed and approved by the Fire Chief.

F. **Decommissioning.** The Applicant shall submit a plan outlining the process for decommissioning of the data center should the project cease operations. The project shall be decommissioned if for twelve (12) months the project has not been in operation, or if the Zoning Administrator determines that the project is no longer being maintained in an operable state of good repair. The decommissioning may be postponed by the Planning Commission upon presentation of substantial evidence of the intent to maintain and reinstate operation of the data center. If decommissioning is triggered by either of these two conditions, the project owner and/or operator must remove all equipment, structures, fencing, parking spaces, and roads within six (6) months of the notice to decommission from the Zoning Administrator. The site must be restored to original condition by filling with top soil and restoring it to a state compatible with surrounding vegetation. If the owner of the project fails to remove or repair any defective, abandoned or terminated project, the Township, in addition to any other remedy under this Ordinance, may pursue legal action to abate the violation by seeking to remove the project and recover any and all costs, including attorney fees. The Township may require the project owner or operator to post a bond, letter of credit, or establish an escrow account, to be reviewed and updated by a third party approved by the Township at the owner or operators' expense, every five (5) years to ensure property decommissioning.

G. **Change in Ownership.** The Township shall be notified of any intent to transfer the ownership of the Data Center and reassignment of a special use permit. The current facility owner or operator shall provide written notice to the Planning Commission at least sixty (60) days prior to when an agreement to change the ownership of the facility becomes effective. The notice shall inform the Planning Commission of the intended transfer of control of the Data Center. Such an instrument or agreement shall include an express statement that the new owner or operator of the Data Center shall not be permitted to operate that facility until compliance with the terms of this ordinance have been met, including requirements for a decommissioning security.

H. **Community Impact Analysis.** Applicants for a data center shall submit a document that identifies impacts of a proposed project on community resources and services, including, but not limited to, roads, fire protection (including any necessary training or equipment), police protection, emergency services, and public drainage systems including culverts. Applicants shall demonstrate in an application for a data center how they will ensure impacts from a proposed project on community resources and services will be addressed by the applicant and not be borne on the Township.

SECTION 6.21 DRIVE-IN/DRIVE-THROUGH RESTAURANT

These uses shall be subject to the following:

A. Vehicular access drives to a drive-in/fast food restaurant shall be located at least one hundred and fifty (150) feet from the right-of-way of any intersecting street.
B. The lot occupied by such use shall not abut a Residential District unless the district is separated from the lot by a public street.

SECTION 6.22 ESSENTIAL PUBLIC SERVICE BUILDINGS, SUBSTATIONS, ELECTRIC POWER GENERATING PLANTS AND RELATED USES

These uses shall be subject to the following:

A. The application shall include a detailed statement of all federal, state and county regulations that apply to the particular site or activity, a copy of the regulation and a statement indicating the proposed method of complying with each regulation.

B. If any hazardous materials are to be stored on the site or used in any manufacturing process, a detailed listing of each substance, and the approximate quantity to be located on site shall be submitted. A detailed plan for substance storage, hazard control and prevention and emergency response shall be submitted and reviewed by the Fire Chief and a report made to the Planning Commission.

C. A bufferstrip shall be installed along the length of the property line, in accordance with the requirements of Section 10.03 in all of the following instances
   1. When the proposed use abuts property in the SFR, RF, and MHP zoning districts.
   2. When the proposed use is within 500 feet of any residential dwelling.

D. If the Planning Commission determines that any proposed use or activity will create discernable noise, dust, vibration, odor, glare or heat beyond any property line an assessment and narrative shall be provided which addresses and quantifies each concern and addresses how each concern will be minimized.

SECTION 6.23 FARM MARKETS

This use shall be subject to the following:

A. The parcel must have a minimum of 100 feet of frontage on a state highway or county primary road as designated by the Bay County Road Commission.

B. Only one Farm Market shall be located on a parcel or parcels of land held in contiguous ownership.

C. Any sale or display area shall be located a minimum of 25 feet from any property line.

D. A minimum of 5 off-street parking spaces shall be provided in a manner which permits vehicles to exit the property without backing onto the street.

E. A farm market shall only be operated between May 15th and November 15th.

F. No permanent structures, buildings or display areas are permitted. Portable structures, buildings or display areas are permitted provided: they do not exceed 10 feet in height; they contain a maximum of 300 square feet; they are placed or installed after May 15th and they are removed before December 1st of any year; and, they are not stored in any front or side yard area when not in use.

G. Adequate provisions shall be made for the removal and disposal or decaying or rotting produce to prevent odors and as a means of controlling insects.

H. The placement of any sign shall be in accordance with the provisions of Chapter Eleven.

I. Any farm market meeting the qualifications of Generally Accepted Agricultural Management Practices (GAAMPs) is exempt from the dimensional requirements of this section provided that a site plan is approved by the Michigan Department of Agriculture and Rural Development and remitted to the Township.

SECTION 6.24 FUNERAL HOMES

This use shall be subject to the following:

J. The size, character and architectural nature of the building and associated structures shall be compatible and harmonious with other properties in the vicinity.

K. The minimum lot size is three (3) acres.

L. The minimum lot width is 300 feet.

M. The minimum front, rear and side yard setback is 75 feet.

N. The parcel shall have at least one property line that abuts a state highway or county primary road as designated by the Bay County Road Commission and primary access to the facility shall be directly from said streets.

O. The applicant must be able to demonstrate that the proposed use will not create traffic congestion or cause undue traffic safety problems.

P. Adequate off-street parking shall be provided in accordance with the requirements of Chapter Nine.

Q. Fencing and/or greenbelts may be required along side and rear property lines if the Planning Commission determines that they are necessary to prevent adverse impacts on adjacent properties.

SECTION 6.25 GOLF COURSES

This use shall be subject to the following:

A. The minimum lot size is 40 acres.

B. No building or non-golfing use shall be located closer than 100 feet to any front, side or rear property line.

C. The Planning Commission may require the installation of greenbelts or earth berms to visually screen the golf course from adjacent uses of land.

D. All exterior lighting shall be shielded or designed so as not to extend beyond property lines.

E. A minimum of 6 off-street parking spaces per hole shall be provided, plus one space per employee, plus spaces as required in Chapter 17 for each accessory use such as a proshop or restaurant.

SECTION 6.26 GOVERNMENT AND PUBLIC UTILITY ADMINISTRATION AND SERVICE BUILDINGS

This use shall be subject to the following:

A. The size, character and architectural nature of the building and associated structures shall be compatible and harmonious with other properties in the vicinity.

B. The minimum lot size is three (3) acres.

C. The minimum lot width is 300 feet.

D. The minimum front, rear and side yard setback is 75 feet.

E. The parcel shall have at least one property line that abuts a state highway or county primary road as designated by the Bay County Road Commission and primary access to the facility shall be directly from said streets.

F. The applicant must be able to demonstrate that the proposed use will not create traffic congestion or cause undue traffic safety problems.

G. Adequate off-street parking shall be provided in accordance with the requirements of Chapter Nine.

H. Fencing and/or greenbelts may be required along side and rear property lines if the Planning Commission determines that they are necessary to prevent adverse impacts on adjacent properties.

SECTION 6.27 GROUP DAY CARE HOMES

This use shall be subject to the following:

A. The size, character and architectural nature of the dwelling and associated structures shall be compatible and harmonious with other properties within the vicinity.

B. The hours of operation shall be between 6:00 AM and 9:00 PM.

C. The minimum lot size is one (1) acre.

D. The minimum lot width is 200 feet.

E. The parcel must front a state highway or county primary or secondary road as designated by the Bay County Road Commission.

F. The facility shall be designed and operated in a manner that will minimize any detrimental effects on surrounding properties.

G. Adequate off-street parking must be provided.

H. A drop-off/pick up area shall be provided for motorists off the public street which permits vehicles to exit the property without backing onto the street.

I. Any outside play area shall be in the rear yard area and completely enclosed with a fence which is deemed adequate by the Planning Commission.

SECTION 6.28 HOME OCCUPATIONS

This use shall be subject to the following:

A. It is conducted entirely within a dwelling unit.

B. It is a use that is traditionally or customarily carried out in the home.

C. No article is offered for sale or service rendered except as is produced or performed by such home occupation.

D. No more than two persons, both of whom are members of the household, are engaged in such activity on either a part-time or full-time basis.

E. It does not require any internal or external alterations or construction features or equipment or machinery not customary in residential areas.

F. It does not change the character of the dwelling in which it is conducted and does not constitute, create or increase a nuisance.

G. It displays no sign not permitted in the zoning district within which it is located.

H. Not more than 20 percent of the usable floor area of the dwelling within which it is located shall be occupied by such home occupation.

I. Not more than one home occupation is permitted within any dwelling.

J. It does not require any additional off-street parking spaces.

K. The home occupation or any activity created by the home occupation does not change the character of the neighborhood nor adversely affect the uses permitted therein.

SECTION 6.29 HOSPITALS

This use shall be subject to the following:

A. The facility shall comply with the appropriate State of Michigan licensing requirements.

B. The size, character and architectural nature of the buildings and associated structures shall be compatible and harmonious with other properties in the vicinity.

C. The minimum lot size is ten (10) acres.

D. The minimum lot width is 300 feet.

E. The minimum front, rear and side yard setback is 100 feet.

F. The parcel shall have at least one property line that abuts a state highway or county primary access to the facility shall be directly from said streets.

G. Adequate off-street parking shall be provided in accordance with the provisions of Chapter Nine.
H. The rear and side lot lines shall be fenced in a manner deemed adequate by the Planning Commission.

SECTION 6.30 INSTITUTIONS FOR THE MENTALLY ILL OR DEVELOPMENTALLY DISABLED

This use shall be subject to the following:

A. The facility shall comply with the appropriate State of Michigan licensing requirements.

B. The size, character and architectural nature of the buildings and associated structures shall be compatible and harmonious with other properties in the vicinity.

C. The minimum lot size is ten (10) acres.

D. The minimum lot width is 300 feet.

E. The minimum front, rear and side yard setback is 100 feet.

F. The parcel shall have at least one property line that abuts a state highway or county primary access to the facility shall be directly from said streets.

G. Adequate off-street parking shall be provided in accordance with the provisions of Chapter Nine.

H. The rear and side lot lines shall be fenced in a manner deemed adequate by the Planning Commission.

SECTION 6.31 IRON OR STEEL FOUNDRY OR FABRICATING PLANTS AND HEAVYWEIGHT CASTINGS

These uses shall be subject to the following:

A. The application shall include a detailed statement of all federal, state and county regulations that apply to the particular site or activity, a copy of the regulation and a statement indicating the proposed method of complying with each regulation.

B. If any hazardous materials are to be stored on the site or used in any manufacturing process, a detailed listing of each substance, and the approximate quantity to be located on site shall be submitted. A detailed plan for substance storage, hazard control and prevention and emergency response shall be submitted and reviewed by the Fire Chief and a report made to the Planning Commission.

C. The minimum lot size is five (5) acres.

D. No listed use or activity shall be conducted within a building that is closer than 500 feet to any zoning district that permits residential dwellings.

E. If the Planning Commission determines that any proposed use or activity will create discernable noise, dust, vibration, odor, glare or heat beyond any property line a detailed statement shall be provided which addresses and quantifies each concern and addresses how each concern will be minimized.

SECTION 6.32 KENNELS

This use shall be subject to the following:

A. The minimum lot size is three (3) acres.

B. The minimum lot width is 300 feet.

C. All buildings, runways, cages, pens and any outside area where animals may be kept or exercised shall not be located closer than 100 feet of any property line. The Planning Commission may require that all animals be kept within a building at all times if it determines that the outside keeping or exercising of animals would have a detrimental effect on other properties in the vicinity.

D. Adequate off-street parking shall be provided in accordance with the requirements of Chapter Nine.

E. Fencing and/or greenbelts may be required alongside the rear property lines if the Planning Commission determines that they are necessary to prevent adverse impacts on adjacent properties.

SECTION 6.33 MANUFACTURING OF BULK STORAGE OF ACETYLENE GAS, ALCOHOL, AMMONIA, BLEACHING POWDER, CHLORINE, BITUMINOUS ASPHALT, CONCRETE, CEMENT, PLASTICS, PAINT, OIL, SHELLAC, TURPENTINE, LACQUER OR VARNISH

These uses shall be subject to the following:

A. The application shall include a detailed statement of all federal, state and county regulations that apply to the particular site or activity, a copy of the regulation and a statement indicating the proposed method of complying with each regulation.

B. If any hazardous materials are to be stored on the site or used in any manufacturing process, a detailed listing of each substance, and the approximate quantity to be located on site shall be submitted. A detailed plan for substance storage, hazard control and prevention and emergency response shall be submitted and reviewed by the Fire Chief and a report made to the Planning Commission.

C. The minimum lot size is five (5) acres.

D. No listed use or activity shall be conducted within a building that is closer than 500 feet to any zoning district that permits residential dwellings.

E. If the Planning Commission determines that any proposed use or activity will create discernable noise, dust, vibration, odor, glare or heat beyond any property line a detailed statement shall be provided which addresses and quantifies each concern and addresses how each concern will be minimized.

SECTION 6.34 MINI-STORAGE RENTAL STRUCTURE AND WAREHOUSING AND RECREATIONAL VEHICLE OR BOAT STORAGE YARDS

These uses shall be subject to the following:

A. All buildings and outside storage areas shall have a minimum setback of one hundred (100) feet from any Residential District unless the district is separated from the use by a public street.

B. Any outside storage area or access drive shall be constructed in accordance with the provisions of Chapter Nine for off-street parking lots.

C. There shall be a minimum distance of thirty (30) feet between buildings.
D. The entire site shall be enclosed with a six (6) foot high cyclone fence or other type approved by the Zoning administrator.

E. Any outside storage area shall be visually screened from any public street right-of-way by the placement of a ten (10) foot wide greenbelt along the entire length of the street frontage in accordance with the provisions of Chapter Ten.

F. There shall be no outdoor storage permitted within any front yard area.

SECTION 6.35 MOBILE HOME, TRUCK, AND FARM IMPLEMENT SALES AND REPAIR

These uses shall be subject to the following:

A. The display of new or used mobile homes, trucks or farm implements shall not be carried out within any required front yard bufferstrip area and shall be clearly illustrated on the required Site Plan.

B. All outdoor display areas shall be of an improved paved surface or shall be suitably landscaped with paved walkways.

C. No product display or storage shall be carried out within areas required for customer, employee or service parking.

SECTION 6.36 MULTIPLE FAMILY BUILDING

These uses shall be subject to the following:

A. Public sanitary sewers and watermains are required.

B. The maximum building height is 35 feet.

C. The minimum lot area for each development is three acres.

D. The minimum lot width is 300 feet.

E. Not more than 12 dwelling units per acre is permitted.

F. The maximum lot coverage is 40 percent.

G. The minimum side yard is 40 feet.

H. The minimum front yard is 40 feet.

I. The minimum rear yard is 40 feet.

SECTION 6.37 OPEN AIR BUSINESSES

Such uses shall be subject to the following:

A. Retail sales of plant materials not grown on site and sales of lawn furniture, playground equipment, and other home garden supplies, when not located at the intersection of two (2) major thoroughfares and with a minimum setback of one hundred (100) feet from and Residential District unless the district is separated from the use by a public street. No materials or products shall be displayed within any required front or side yard setback area.

B. Recreational space providing children's amusement park, shuffleboard, miniature golf, golf driving range and other similar recreation, when part of a planned development and not located at the intersection of two (2) major throughfares. The recreation space shall have a minimum setback of one hundred (100) feet from any Residential District unless the district is separated from the use by a public street. The minimum lot size is two (2) acres. The Planning Commission may require the installation of greenbelts, earth berms or fencing along side and rear lot lines if it is determined necessary to maintain the privacy of adjoining parcels of land or to prevent paper and other debris from blowing off from the site. The Planning Commission shall determine the necessary side and rear yard setbacks based on such factors as the nature of the specific proposed uses, the hours of operation, the type of equipment to be used and the existing uses and zoning of adjacent parcels of land.

SECTION 6.38 OTHER INDUSTRIAL USES THAT ARE DETERMINED BY THE PLANNING COMMISSION TO BE SIMILAR TO THOSE USES PERMITTED IN THE INDUSTRIAL DISTRICT AS SPECIAL USES

These uses shall be subject to the following:

A. The application shall include a detailed statement of all federal, state and county regulations that apply to the particular site or activity, a copy of the regulation and a statement indicating the proposed method of complying with each regulation.
B. If any hazardous materials are to be stored on the site or used in any manufacturing process, a detailed listing of each substance, and the approximate quantity to be located on site shall be submitted. A detailed plan for substance storage, hazard control and prevention and emergency response shall be submitted and reviewed by the Fire Chief and a report made to the Planning Commission.

C. The minimum lot size is five (5) acres.

D. No listed use or activity shall be conducted within a building that is closer than 500 feet to any zoning district that permits residential dwellings.

E. If the Planning Commission determines that any proposed use or activity will create discernible noise, dust, vibration, odor, glare or heat beyond any property line a detailed statement shall be provided which addresses and quantifies each concern and addresses how each concern will be minimized.

SECTION 6.39 OUTDOOR SPACE FOR THE SALE OR RENTAL OF NEW OR USED AUTOMOBILES, BOATS, RECREATIONAL VEHICLES, TRUCKS OR SIMILAR PRODUCTS

These uses shall be subject to the following:

A. The display of new and used cars, boats, trucks or other similar products shall not be carried out within any required front yard bufferstrip area and shall be clearly illustrated on the required Site Plan.

B. All outdoor display areas shall be of an improved paved surface.

C. Vehicle, boat, or other similar product display or storage shall not be carried out within areas required for visitor, employee, or service parking.

D. Vehicle or product service and repair shall be carried out in accordance with the provisions of Section 6.09.

SECTION 6.40 PETROLEUM STORAGE FACILITIES

These uses shall be subject to the following:

A. The application shall include a detailed statement of all federal, state and county regulations that apply to the particular site or activity, a copy of the regulation and a statement indicating the proposed method of complying with each regulation.

B. If any hazardous materials are to be stored on the site or used in any manufacturing process, a detailed listing of each substance, and the approximate quantity to be located on site shall be submitted. A detailed plan for substance storage, hazard control and prevention and emergency response shall be submitted and reviewed by the Fire Chief and a report made to the Planning Commission.

C. The minimum lot size is five (5) acres.

D. No listed use or activity shall be conducted within a building that is closer than 500 feet to any zoning district that permits residential dwellings.

E. If the Planning Commission determines that any proposed use or activity will create discernable noise, dust, vibration, odor, glare or heat beyond any property line a detailed statement shall be provided which addresses and quantifies each concern and addresses how each concern will be minimized.

SECTION 6.41 PONDS

Detention/Retention Ponds, as defined in Chapter Fifteen, are permitted as a component of a site plan review request as required by the Bay County Drain Commission for commercial, industrial, or large residential development (including, but not limited to, subdivisions and multi-family developments). Detention/Retention Ponds, as defined in Chapter Fifteen, are permitted within any zoning district as an accessory use provided a special use permit is granted by the Planning Commission. The following conditions and criteria apply to access and agricultural ponds and must be met by the Planning Commission to grant a special use permit. The safety precautions to be taken to protect those using the pond or who might be endangered by it.

A. The pond shall maintain a minimum side yard and rear yard setback of twenty (20) feet. The minimum side and rear yard setbacks shall be increased by one (1) foot for each foot of depth in excess of twenty (20) feet. Ponds shall also comply with front yard requirements for the zoning district in which it is located. A pond may be located in any zoning district and shall be considered an accessory use in any zoning district. As part of its authorization of a pond, the Planning Commission may approve the location of a pond in a front yard, providing the required setbacks are maintained.

B. If Planning Commission determines in the course of its approval of a pond that the protection of the general public requires that the pond be enclosed, the Planning Commission shall require that the pond be enclosed by a wall fence, or other type of enclosure. The wall, fence, or other enclosure shall:
   1. Be not less than four (4) feet above the grade line;
   2. Be designed to restrict a child from passing through, under, or climbing over the fence, wall or other enclosure except at a gate or door. All gates or doors leading to a pond, except a door in any building forming part of the enclosure, shall:
      a. Be kept closed when the pond is not in actual use; and
      b. The gates and doors shall be fitted with a positive latching device which automatically latches when the gate or door is closed.

   Unless the pond is in actual use, all gates and doors leading to the pond shall be kept locked at all times when the occupant of the building situated on the property where the pond is located is absent or away. In the event that any pond shall be located on a parcel of land where there is no building actually occupied by the owner, then all gates or doors to the pond shall be kept securely closed, latched and locked when the pond is not in actual use.

C. No pond shall be used or maintained unless adequate public health measures are periodically taken to ensure the existence or use thereof does not cause the spread of disease, stagnation or otherwise provide conditions dangerous or injurious to the public health.

D. The discharge pipe from any pond without a direct outlet to an established drain shall:
   1. Not exceed four (4) inches in diameter, unless otherwise recommended by the Bay County Drain Commissioner or Township Engineer;
   2. Be constructed with galvanized iron or such other standard and durable material as may be approved by the Zoning administrator.

E. No pond shall be wholly or partially emptied in any manner that will cause water to flow upon the land of another, and no pond shall be wholly or partially emptied upon any land if a storm drain is readily accessible to the premises on which the pond is located. Discharge into the public sanitary sewer is strictly prohibited.

F. No public water shall be used in connection with the filling or operation of a pond when limitations on the consumption and the use of the public water is in effect. When public water is used to fill any pond, an adequate back-flow check valve mechanism or system shall be installed to prevent the pond water from flowing into the public water supply system.

G. The slopes of the banks or sides of the pond shall be constructed so that for each one (1) foot of rise there shall be a minimum of four (4) foot of run. This minimum slope angle must be maintained and extended for the first four (4) feet of water depth. The slope angle can then be altered to one (1) foot of run for the remaining depth of the pond.

H. No pond shall be constructed, installed or maintained, which either causes or contributes to the erosion of any adjacent, abutting, or nearby lands. If the soil to be removed to create the pond is left on the site and used to fill any portion of the site, a detailed grading plan must be submitted which indicates the number of cubic yards of material to be left on the site, the proposed elevations of the area to be altered or filled and the proposed final grading which must clearly indicate that there will be no storm water runoff onto adjacent or nearby lands.

I. An application for approval of a special use permit for a pond shall be on forms provided by the Township and shall include:
   1. The safety precautions to be taken to protect those using the pond or who might be endangered by it;
   2. The size, depth, and water capacity of the pond;
   3. The water source and method of water discharge;
   4. The method of filtration and treatment of the water, if required;
   5. That the applicant has sought and obtained all necessary soil erosion permits or has been informed that no said erosion permits are necessary for the construction of said pond;
   6. The proposed location(s) for the placement of safety equipment, if required;
   7. If excavated materials are to be removed from the site, the applicant shall supply the following:
      a. A proposed haul route depicting how vehicles hauling materials will approach the site (empty vehicles) and transport materials to its final destination (loaded vehicles).
      b. A cost estimate of road repair from the Bay County Road Commission associated with the proposed haul route.
      c. Once the special use permit is approved, prior to the issuance of a building permit, a performance bond, letter of credit or certified check shall be provided to the Township in an amount equal to the estimated cost of road repair as provided by the Bay County Road Commission in conformance with the standards of Section 12.10.
   8. Ponds less than two (2) acres in size and less than thirty (30) feet in depth shall provide a Plot Plan as prescribed in Section 8.04 of the Ordinance. The zoning administrator, under their discretion, may impose a bond as outlined in Section 12.10.
   9. Ponds larger than two (2) acres in size and/or exceeding thirty (30) feet in depth shall provide a site plan as prescribed in Section 8.05 of the Ordinance.

10. Ponds that are proposed on a vacant residential lot shall be required to submit a performance bond, letter of credit, or certified check to the Township in an amount sufficient to cover the estimated cost of restoring the site to its original state, prior to pond excavation. The following conditions apply:
    a. If the property owner constructs a principal structure on-site, the financial surety will be returned/rescinded.
    b. The Planning Commission may review the estimated cost of reclamation on an annual basis to ensure that the posted financial surety is adequate for reclamation activities.
    c. The pond construction, including all conditions of approval, must be completed within a two (2) year time period.
    d. Soils shall not be transported off-site until a home is constructed. Soils excavated for the purpose of creating a pond may be utilized as part of the reclamation process should a dwelling not be constructed within the required timeframe.
11. Any further information necessary for the protection of public health and safety as may be required by the Planning Commission.

J. A building permit for a pond for which a special use permit has been granted under this subsection shall be requested and issued within one year of the date of grant of the special use permit. Failure to obtain a building permit within the one (1) year period of limitations will result in the termination of the special use permit, and it will be necessary for the applicant to apply for a new special use permit.

K. Accessory ponds shall be limited to a maximum size of two (2) acres.

L. All ponds greater than five (5) acres in size shall be classified as a surface mine and conform to the standards of Section 6.53, Surface Mining.

M. The following conditions and criteria apply to agricultural ponds larger than two (2) acres in size and/or exceeding thirty (30) feet in depth and must be met for the Planning Commission to grant a special use permit.
    1. A minimum setback of fifty (50) feet from the side or rear lot lines shall be maintained.
    2. A minimum setback of one hundred (100) feet from the road right-of-way shall be maintained.
    3. A minimum setback of twenty-five (25) feet from structures shall be maintained. [1]
    4. An application for approval of a special use permit for a pond shall be on forms provided by the Township and shall include:
        a. A Site Plan including all information identified within Section 8.05 of the Ordinance, in addition to the following:
            i. Above-ground and below ground utilities, poles, wells, septic tanks and leach beds, water lines and hydrants, sanitary, field tile and storm drains, culverts, manholes, catch basins, or any other structure or natural feature on the parcel to contain the proposed pond, and within one hundred (100) feet of the ponds perimeter, including the distance between the proposed pond and each structure, underground utility, or use.

ii. Indicate the existing and proposed ground elevations with contour lines of no more than ten (10) foot intervals and/or such other topographic information satisfactory to the Township Planning Commission. Include all elevations of the parcel's lot corners and property lines.
iii. Cross-section drawings of the pond indicating the depth, slopes, length, width, height, or other grading of the pond and placement of excavated spoils.
iv. Location and dimensions of all structures on site and the dimensions of adjacent parcels.

SECTION 6.42 PORTABLE STORAGE CONTAINERS

Property owners will be required to obtain a temporary zoning permit from the Zoning Administrator. Property owners using Portable Storage Containers for temporary use must be able to produce for inspection upon request by the Township any documentation related to shipping dates for each container on site. One (1) Portable Storage Containers per lot is maximum number of containers allowed annually. The following regulations shall also apply:

A. **Placement.** Portable Storage Containers may be used in all zoning districts and shall adhere to the following restrictions and requirements:
   1. No Portable Storage Container may be stacked on top of another or on top of any other object.
   2. Portable Storage Containers shall not be used to store hazardous materials, as defined by the Michigan Fire Code.
   3. No Portable Storage Container may be used as living quarters.
   4. No livestock or pets may be stored in Portable Storage Containers.
   5. No electricity or plumbing may be run or connected to a Portable Storage Container.
   6. Portable Storage Containers used in a residential district or associated with a residential use must be placed on a driveway or paved area.
   7. Portable Storage Containers used in a non-residential district or associated with a non-residential use shall not occupy required off-street parking, loading or landscaping areas.
   8. No Portable Storage Container shall be placed in a location which may cause hazardous conditions, constitute a threat to public safety, or create a condition detrimental to the surrounding land use and development.

B. **Time Limit.**
   1. Portable Storage Containers shall be removed from the property within ninety (90) days from the date of initial placement. Property owners are allowed an additional two (2), ninety (90) day periods, annually.
   2. In no event shall the use of a Portable Storage Container exceed 270 days during any twelve-month period.
   3. Portable Storage Containers associated with an approved building construction project shall be permitted to remain on-site until the approval of the lesser of the project's final building inspection or the expiration of the building permit.

4. Portable Storage Containers may not be placed on a vacant lot, unless that lot is associated with an approved building construction project.

SECTION 6.43 PRIVATE OR PUBLIC HELIPORTS

These uses shall be subject to the following:

A. The proposed heliport shall be constructed, operated and maintained in accordance with the published rules and regulations of the Federal Aviation Administration, Michigan Aeronautic Commission and the National Fire Association governing the use of heliports.

B. The application shall include a copy of an approved Michigan Aeronautics Commission application for licensing.

C. The application shall include an aerial photograph at a scale of one inch equal 400 feet, or less, indicating the approach and departure routes, the location of all residences, schools, churches, hospitals and areas used for the open assembly of people as well as other noise sensitive areas within a radius of one-half mile of the proposed heliport site.

D. A description of the purpose for which the heliport is being established and a schedule of proposed activities including:
   1. Number of monthly operations.
   2. Hours of operation.
   3. All support activities such as storage, maintenance and refueling.

E. An environmental assessment showing the expected noise levels and possible odors, fumes and dust that may be caused by the operations of the heliport. It shall also include a statement of adverse impacts on other properties in the area and the steps that will be taken to minimize those impacts.

F. There is no minimum lot size, but the parcel shall be of ample size to accommodate the proposed heliport and related activities.

SECTION 6.44 PROCESSING, STORAGE OR SALE OF JUNK, WASTED, DISCARDED OR SALVAGED MATERIALS, MACHINERY OR EQUIPMENT INCLUDING MOTOR VEHICLES AND TRAILERS

These uses shall be subject to the following:

A. Requests for a Special Use approval for establishment of a salvage or junk yard shall also require submission of a detailed proposal identifying the predominant type of salvage or junk to be received, the methods of separation and/or recycling, and ultimate destination of waste materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary state, county, and local laws.

B. The site shall be provided with suitable access to a state highway or county primary road as designated by the Bay County Road Commission to ensure safe, direct transport of salvage to and from the site.

C. No portion of the storage area shall be located within two hundred (200) feet of any Residential District or use property line.

D. Any outdoor storage area shall be completely enclosed by a fence or wall at least six (6) feet in height constructed of a sturdy, durable material and sufficiently opaque to ensure that salvage is not visible from outside the storage area. The fence or wall shall have a minimum of two (2) non-transparent gates not exceeding forty-eight (48) feet in width providing access to the storage area for vehicles but shall not allow direct view of the storage area from adjacent properties or streets. Said fence or wall shall be continuously maintained in good condition and shall contain only approved signs.

E. Stored materials shall not be stacked higher than ten (10) feet and shall be stored in a manner so as not to be visible from adjoining properties of rights-of-way. In no case shall salvage or junk be stored at a height exceeding the height of the storage area fence or wall.

F. The fence or wall enclosing the storage area shall meet the applicable building setback requirements.

G. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.

H. All portions of the storage area shall be accessible to emergency vehicles.

I. Vehicles or vehicle bodies shall be stored in rows with a minimum of twenty (20) foot continuous loop drives separating each row of vehicles.

J. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.

K. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.

L. The minimum lot size is ten (10) acres.

M. All fences shall be setback a minimum of 50 feet from any Residential District or use property line.

SECTION 6.45 PROPANE TANK BUSINESS

This use shall be subject to the following:

A. The application shall include a detailed statement indicating all federal, state and county regulations that apply to the particular site or activity, a copy of the regulation and a statement indicating the proposed method of complying with each regulation.

B. The minimum lot size is three (3) acres.

C. The minimum lot width is 300 feet.

D. The parcel must front on a state highway or a county primary road as designated by the Bay County Road Commission and primary access to the site shall be directly from said streets.

E. No building in which propane tanks are kept or stored shall be located closer than 300 feet from any zone district within which residential dwellings can be located.

F. The minimum front, rear and side yard setback is 100 feet.

G. Fencing and/or greenbelts may be required if the Planning Commission determines that they are necessary to prevent adverse impacts on adjacent properties.

H. The Planning Commission may impose such additional conditions as it determines are necessary to protect the health, safety and welfare of users of the proposed facility and other properties in the vicinity of the proposed use.

SECTION 6.46 PUBLIC AND PRIVATE PARKS AND PLAYGROUNDS

These uses shall be subject to the following:

A. The minimum lot size is two (2) acres.

B. The minimum lot width is 200 feet.

C. The minimum front, rear and side yard setback is 75 feet.

D. Fencing may be required if deemed necessary by the Planning Commission.

SECTION 6.47 SCHOOLS, COLLEGES, AND LIBRARIES

These uses shall be subject to the following:

A. The minimum lot size is five (5) acres.

B. The minimum lot width is 300 feet.

C. The minimum front, rear and side yard setback is 75 feet.

D. The applicant must be able to demonstrate that the proposed use will not create traffic congestion or undue traffic safety problems.

E. Adequate off-street parking shall be provided in accordance with the requirements of Chapter Nine.

F. All uses except elementary schools shall have at least one property line that abuts a state highway or county primary road as designated by the Bay County Road Commission and primary access to the facility shall be directly from said streets.

G. Fencing and/or greenbelts may be required along side and rear property lines if the Planning Commission determines that they are necessary to prevent adverse impacts on adjacent properties.

SECTION 6.48 SHOOTING RANGE AND/OR GUN SALES

These uses shall be subject to the following:

A. The application shall include a detailed statement indicating all federal, state and county regulations that apply to the particular site or activity, a copy of the regulation and a statement indicating the proposed method of complying with each regulation.

B. The minimum lot size is three (3) acres.

C. The minimum lot width is 300 feet.

D. The parcel must front on a state highway or a county primary road as designated by the Bay County Road Commission and primary access to the site shall be directly from said streets.

E. No building in which ammunition is kept or stored shall be located closer than 300 feet from any district within which residential dwellings are permitted.

F. The minimum front, rear and side yard setback is 100 feet.

G. Fencing and/or greenbelts may be required if the Planning Commission determines that they are necessary to prevent adverse impacts on adjacent properties.

H. The Planning Commission may impose such additional conditions as it determines are necessary to protect the health, safety and welfare of users of the proposed facility and other properties in the vicinity of the proposed use.

SECTION 6.49 SOIL, SAND, CLAY, GRAVEL OR SIMILAR REMOVAL OPERATIONS

These uses shall be subject to the following:

A. The application and site plan shall include:
   1. A full legal description of the premises wherein the operation is proposed.
   2. A detailed statement disclosing the limits of the area proposed for the operation, to include the maximum depth of any excavation, proposed finish grade, and the manner in which the land will be restored following termination of the operations so the land will not remain devastated beyond any reasonable use.
   3. Detailed information as to the method of operation, type of machinery and equipment to be used.

4. A topographic survey map on a scale not less than one inch equaling one hundred feet, showing on a five-foot interval, existing grades of the land prior to any removal, grades of the proposed excavation and the finished grades. The perimeter of each phase to be mined shall be specifically defined on the topographic map. No use of land will be allowed outside of agreed upon perimeters, including, excavating of any kind or storage of equipment or any debris such as trees or stumps. The topographic map shall be amended annually to include the proposed area to be mined in each phase. Said map to be prepared and sealed by a registered civil engineer or land surveyor.
5. An estimated period of time such operation will take.
6. Detailed information regarding the type of material to be removed or deposited.
7. Names and addresses of parties of interest, along with telephone numbers of responsible persons involved in said operations, who may be reached between 8:00 AM and 5:00 PM daily, as well as hours after operations, shall be contained in one document and submitted to the Township Clerk and the Township Inspector and the appropriate emergency services.

B. No finished slopes shall at any time exceed 33-1/3 percent.

C. No excavation other than those which are incidental to building, structure or public utility construction, shall be permitted below the grade of any adjoining public street or abutting property under different ownership for a distance of not less than 75 feet with final setback determined by the Planning Commission subject to the site plan information submitted.

D. A 50-foot-wide greenbelt shall be preserved as part of the 75-foot setback, developed and maintained around the perimeter of the mining property to provide noise and dust protection. In the absence of an adequate greenbelt, a combination of shrubs and earth berm 6 feet to 8 feet in height may be required, depending on the adjoining property protection needs and wind direction.

E. The processing plant, if any, and its accessory structures shall not be located closer than 200 feet from property lines and public right-of-way or less than 500 feet from any residence and shall, where practicable, be as close to the center of the subject property as possible, and at a lower level than the surrounding terrain so as to lessen visual and noise impact. The Planning Commission reserves the right to approve the location of the plant.

F. No dust, dirt or debris emanating from the operation shall at any time be permitted to be deposited upon adjoining premises to such an extent as to be a nuisance or annoyance to the occupants thereof.

G. No mining or processing shall be permitted at any time prior to 7:00 AM and 7:00 PM. No operations shall be allowed on Sundays or legal holidays.

H. To avoid being a nuisance or annoyance, noise levels shall not exceed 65 decibels at any residence or permanent dwelling. In no case, shall more than 25 acres be mined at any time before restoration begins and topsoil is applied. All topsoil shall be stockpiled upon the premises and promptly used to resurface areas where operations have been terminated or have been substantially discontinued for any period in excess of 180 days. Such areas shall then be seeded and planted to lessen erosion and to encourage proper growth within one year of termination of all excavation activity in the area.

I. No natural drainage shall be materially changed or altered in any manner that would adversely affect adjoining premises.

J. No such excavation business shall be located within 500 feet of the margin of any stream or waterway unless previously approved, in writing, by the Michigan Department of Natural Resources. The Planning Commission shall have the right to require an applicant to construct adequate sediment basins if it appears that substantial sediment may be carried into any nearby water course.

K. Any dangerous excavations, pits, pond areas, banks or slopes shall be adequately protected or fenced and posted with signs around the perimeter to prevent uninvited access and shall be eliminated as expeditiously as possible.

L. Truck routes shall be only on streets approved by the County Road Commission under such conditions and securities as may be imposed by the Township or County to protect or repair the roads and to ensure the safety of the public.

M. Special use permits granted herewith may be limited in time, subject to review by the Planning Commission.

N. No mining operation covered by this Ordinance shall be commenced, or shall hereafter continue, until a performance bond has been filed with the Township Clerk in the amount of not less than $3,000 per acre contained in that portion of the plan required to be filed with the Township under Paragraph one being proposed to be excavated, mined or quarried within the ensuing 12 month period, guaranteeing the satisfactory performance of all the regulations herein contained. Such bond shall, at no time, be less than $3,000. No performance bond filed with the Township shall be released until all Ordinance regulations have been fully complied with including restoration.

O. All applicants shall be required to carry personal injury property damage insurance, while any reclaimed or non-rehabilitated area exists, in the amount of not less than $1,000,000 for each occurrence. Such insurance shall cover injury or damage occurrence upon the site of the operations as well as upon properties adjoining thereto, as the result of conditions or activities existing upon the site. Such policies shall be filed with the Township Clerk.

P. Due to the unusual problems and time required for the inspection and monitoring of a mining operation, a reasonable mining fee may be required to be deposited with the Township Clerk. The fee shall be based on an estimate of the cost to monitor and inspect the site in order to determine if there is compliance with the requirements of the permit. The fee may include the cost of inspectors, surveyors, engineers, attorneys and other required professionals. The Township shall provide the applicant with an accounting of all disbursements. If an additional deposit is required it shall be submitted within 30 days of a written request and any unused portion of the fee shall be returned to the applicant upon the completion of all mining and restoration activities.

Q. Sufficient off-street parking shall be required on the site for trucks servicing the operation. No parking will be allowed on the roadside or road right-of-way. To minimize the potential for fuel spills, and possible soil contamination during equipment and truck refueling, an on-site refueling area shall be required for use with either fuel pumper trucks, or on-site fuel storage tanks. Said area shall be placed as a catch basin, capable of containing any fuel spillage. The basin shall be bermed, rubber lined and equal to the size of the storage tank. A remediation plan shall be submitted to the Township and the appropriate fire department. Caution or truck crossing signs shall be provided on public roads, measuring at least three (3) feet square to identify truck entrances and exits. Said entrances and exits shall be repaired and maintained by the mining operator to ensure safety and visibility. Dust, loose gravel, mud and chuckholes all create dangerous and hazardous road conditions. If any of these conditions exist, they shall be alleviated daily. A stop sign shall be erected and maintained by the owner/operator at all egress roads of the disposal area. Under no circumstances shall trucks use private drives or private access routes form the applicants' property which are within 150 feet of any residence.

R. A pre-startup meeting shall be instituted at least one week prior to the start of operations which shall include the Chairperson of the Planning Commission, a representative of the Township Board, the operations on site foreman and the appointed Township Inspector. A pre-startup meeting shall be required for each phase of the remaining years of a permit to allow review of the permit requirements, zoning ordinances and any other issues. The operator is required to present proof of all documents as determined by the Ordinance and the Planning Commission prior to the pre-startup meeting before receiving the Special Use Permit. No permit shall be granted until the applicant has satisfied all prerequisites, and the pre-startup committee has reviewed and approved them. No activity will be allowed on site until such time as all criteria have been met and the permit has been issued.

S. The following procedures shall be imposed for violation of the Ordinance or conditions of the permit:
   1. First offense – a verbal warning followed by a written notice of the violation with a specified time limit in which to comply, not-to-exceed one working day. Failure to comply in the stated time results in a second offense.

2. Second offense of same violation – stop work order followed by a written notice of the violation. Stop work order continues until the violation is corrected or the mining operation submits in writing their plan to remedy the violation.
3. Third offense of same violation – stop work order followed by written notice of violation. Stop work order continues until Planning Commission can schedule a hearing. The chairperson of the Planning Commission will call a special meeting within two days of issuance of the stop work order.

SECTION 6.50 SOLAR ENERGY FACILITIES

This use shall be subject to the following:

A. **General Requirements, on-site solar energy facilities.**
   1. Setbacks: All solar energy systems shall maintain a minimum setback of twenty (20) feet from all property lines.
   2. Mechanical equipment must be screened from street and neighboring residences by fencing or landscaping.
   3. A plot plan, drawn to scale, shall show all existing and proposed structures, driveways, adjacent structures within 100 feet, and any other information required by the Zoning Administrator that is necessary to determine compliance with this ordinance.

B. **Building-mounted solar energy facilities.**
   1. Solar energy collectors that are mounted on the roof of a building shall not project more than five (5) feet above the highest point of the roof but, in any event, shall not exceed the maximum building height limitation for the zoning district in which it is located, and shall not project beyond the eaves of the roof.
   2. Solar energy collectors that are wall-mounted shall not exceed the height of the building wall to which they are attached.
   3. Solar energy collectors, and the installation and use thereof, shall comply with the adopted construction code, electrical code, and other applicable state and federal rules and regulations.

C. **Ground-mounted solar energy facilities.**
   1. Shall not be installed on parcels less than one (1) acre in size.
   2. Shall only be located in the side or rear yard.
   3. The maximum ground area occupied by solar panels is 20 percent of the property's lot size.
   4. If more than 4,000 square feet of impervious surface is proposed, a drainage plan must be submitted with the permit application.
   5. The maximum ground-mounted panel height is 15 feet, measured from grade to the top of the panel.
   6. Panels shall be screened from residential districts and public rights-of-way by a greenbelt and/or six (6) foot privacy fence.

D. **Special Use Requirements, utility-scale solar energy facilities.** The solar energy regulations and standards in this section pertain to the creation of large-scale ground-mounted solar photovoltaic installations that primarily sell electricity to be used off site. The regulations set forth below apply to the construction, operation, and/or repair of large-scale ground-mounted Solar Energy Facilities pursuant to the requirements of Chapter Seven and the following requirements:

1. Procedure. The Planning Commission review of a Special Use Permit application for a Solar Energy Facility shall follow the procedure outlined for special use permits and site plan review within Chapters Seven and Eight of this Ordinance. A decision on the Special Use Permit application by the Planning Commission is inclusive of all improvements on site including all proposed Solar Energy Facilities, underground electrical lines, sub-station(s), junction boxes, laydown yard(s), and any operations/maintenance building(s).
2. Applicant Identification. Applicant name and address in full, a statement that the applicant is the owner involved or is acting on the owner's behalf, the address of the property involved in the application (substitution may include a legal description or parcel identifications number(s)), and any additional contact information. Each application for a Solar Energy Facility also be dated to indicate the date the application is submitted to Portsmouth Township.
3. Fee. An applicant shall remit an application fee and an escrow deposit, in the amount specified by Township policy. This schedule shall be based on the cost of the application review and may be adjusted from time to time. If professional review of plans is required, then such costs shall be paid from the escrow deposit.
4. Project Description. A general description of the project including a legal description of the property or properties on which the project would be located and an anticipated construction schedule.
5. Project Design. A description and drawing of the proposed technology to include the type of solar panel and system, fixed mounted compared to solar tracking, number of panels, and angles or orientation.
6. Insurance. Proof of the applicant's public liability insurance with at least $3,000,000 per occurrence to cover the Solar Energy Facility, the Township, and the landowner.
7. Certification. Certifications that the applicant has complied or will comply with all applicable county, state, and federal laws, regulations, and ordinances, including compliance with the Farmland and Open Space Preservation Program (Part 361 of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994 as amended, more commonly known as PA 116).
8. Manufacturer's Data Sheet(s). Documentation shall include the type and quantity of all materials used in the operation of all equipment.
9. Visual Simulations. Photo exhibits visualizing the proposed solar energy system, with emphasis on visualizing the location of any required fences, landscaping access roads, and setbacks from adjacent non-participating property.
10. Maintenance Plan. Applicant shall submit a maintenance plan that describes the following:
    a. Demonstrates the solar energy facility will be designed, constructed, and operated to minimize dust generation, including provision of sufficient watering of excavated or graded soil during construction to prevent excessive dust.

b. States the manner how unpaved access roads will be treated and maintained, either with a dust palliative or graveled or treated by another approved dust control method to prevent excessive dust.
c. Provisions that will be employed to maintain and promote native vegetation while minimizing the proliferation of weeds during and following construction.

11. Emergency Services. The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. The owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
12. Decommissioning. Copy of the decommissioning plans and a description of how any surety is applied to the decommissioning process.
13. Complaint Resolution. Description of the complaint resolution process.

E. **Site Plan Requirements.** The applicant shall submit a site plan in full compliance with Chapter Eight of this Zoning Ordinance for each Solar Energy Facility and other solar energy appurtenances, including the following requirements:
1. The project area boundaries,
2. The location, height, and dimensions of all existing and proposed structures and fencing,
3. The location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest county or state maintained road,
4. Existing topography,
5. Water bodies, waterways, wetlands, drainage channels, and drain easements, and
6. A site grading, erosion control and storm water drainage plan. At the Township's discretion, these plans may be reviewed by the Township's engineering firm.
7. All comments from the Bay County Drain Commissioner's office pertaining to the proposed solar energy facility shall be submitted to the Planning Commission.
8. All new infrastructure, both above and below ground, related to the project. This includes inverters and batteries.
9. Identification of a construction/set-up/laydown area.

F. **Standards and Requirements.** Solar Energy Facilities shall meet the following standards and requirements:
1. Location of Solar Facilities.
   a. All Solar Energy Facilities must comply with the requirements established in the Portsmouth Township Zoning Ordinance.
   b. All fences and improved areas located on the site shall comply with the applicable setbacks for the district in which it is located. See Chapter Four of the Zoning Ordinance.

      Furthermore, any structures or other improved areas located within the fenced/improved area shall be located at least 30 feet from the fence line/improved area.

Project design and layout will ensure any structures or other improved areas located within the fenced/improved area shall be located a minimum of 100 feet from any residential structure, church, school, family or group child day-care home, and bed and breakfast establishments.

c. Solar panels and associated racking is limited in height to 18 feet. All other structures shall comply with the height requirements of Chapter Four of the Zoning Ordinance.

2. Design and Installation Standards.
   a. All proposed facilities shall comply with all applicable local, state, and federal standards and requirements, including electrical, building, and drain codes.
   b. A copy of the application to the utility company that will be purchasing electricity from the proposed site shall be provided to the Planning Commission.
   c. All electrical connection systems and lines from the Solar Energy Facility to the electrical grid connection shall be located and maintained at a minimum depth of six feet underground.
   d. The design and construction of Solar Energy Facilities shall not produce electrical emissions that would interfere with aircraft communications systems or navigation equipment.
   e. If the Solar Energy Facility consists of batteries or storage of batteries, adequate design must be provided to ensure all local state and federal requirements regulating outdoor battery storage have been met.
   f. The applicant must obtain a driveway permit from the Bay County Road Commission or MDOT, as applicable.
   g. The applicant must obtain any drain permits from the Bay County Drain Commission or MDEQ, as applicable.
   h. The design of landscape buffers for Solar Energy Facilities shall use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.
   i. Lighting shall be consistent with local, state, and federal law, and shall be limited to that required for safety and operational purposes. Lighting shall be reasonably shielded from abutting properties.
   j. Compliance with any applicable airport overlay zoning requirements and the ability to comply with FAA regulations pertaining to hazards to air navigation must be demonstrated.
   k. If a Solar Energy Facility ownership changes, the new owner/operator must meet with the Portsmouth Township Planning Commission to review the conditions of the Special Use Permit within 60 days of the change in ownership.
3. Noise. No additional noise over the existing ambient level shall be heard at the property lines of the project. If noise complaints occur, the owner/operator may be required to complete a noise study and mitigate any additional noise that id found.
4. Light and Glare.
   a. All Solar Energy Facilities shall be placed such that solar glare does not project onto nearby inhabited structures or roadways and be considered a nuisance.

b. The applicant has the burden of proof that any glare produced does not have an adverse effect of neighboring or adjacent uses siting and mitigation. If the solar panel systems do produce a glare, the applicant shall be responsible for mitigation, and will provide a mitigation plan.
c. The design and construction of Solar Energy Facilities shall not produce light emissions, either direct or indirect (reflective), that would interfere with pilot vision and/or traffic control operations.

5. Landscaping.
   a. Applicant shall submit a landscape plan detailing all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing, and planting.
   b. All Solar Energy Facilities shall have a minimum landscape buffer depth of 20 feet. The buffer shall contain evergreen trees or bushes planted no more than eight feet apart and at least four feet tall at time of planting. Trees and bushes planted in the buffer shall obtain a height of ten (10) feet within three growing seasons. The trees or bushes may be trimmed but can be no lower than a height of ten (10) feet.
   c. Land clearing of natural vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the Solar Energy Facility pursuant to practices of best management of natural areas or good husbandry of the land or forest other prescribed by applicable laws, regulations, and bylaws.
   d. Each owner/operator of a Solar Energy Facility shall utilize good husbandry techniques with respect to said vegetation, including but not limited to, proper pruning, proper fertilizer, and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be removed and must be replanted at the next appropriate planting time. Plants or grasses not part of landscaping shall be maintained by the facility operator not to exceed twelve inches in height.
   e. Applicants must provide a detailed maintenance plan for the proposed solar energy system, and surrounding area, including provisions that will be employed to maintain and promote native vegetation while minimizing the proliferation of weeds during and following construction.
6. Security.
   a. The manufacturers or installer's identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner; furthermore, an information sign shall be posted and maintained at the entrance(s), which shall list the name and phone number of the operator.
   b. Solar energy facilities may be surrounded by a chain link fence in accordance with Section 2.08. The fence shall be designed to restrict unauthorized access.
   c. No portion of the Solar Energy Facility shall contain or be used to display advertising. The manufacturers' name and equipment information or dedication of ownership shall be allowed on any equipment of the solar energy system provided they comply with the prevailing sign regulation.

G. **Abandonment and Decommissioning.**

1. Abandonment. A Solar Energy Facility that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the Solar Energy Facility provides substantial evidence (updated every six (6) months after 12 months of no energy production) to the Planning Commission or its designee of the intent to maintain and reinstate the operation of that facility. It is responsibility of the responsible party (or parties) to remove all equipment and facilities and completely restore the property to its condition prior to development of the Solar Energy Facility.
   a. Upon determination of abandonment, the Zoning Administrator shall notify the party (or parties) responsible that they must remove the Solar Energy Facility and restore the site to its condition prior to development of the Solar Energy Facility within six (6) months of notice by the Planning Commission or its designee.
   b. If the responsible party (or parties) fails to comply, the Township or its designee, may remove the Solar Energy Facility, sell any removed materials, and initiate judicial proceedings or take any other steps legally authorized against the responsible parties to recover the costs required to remove the Solar Energy Facility and restore the site to a nonhazardous predevelopment condition.
2. Decommissioning. A decommissioning plan signed by the party responsible for decommissioning and the landowner addressing the following shall be submitted prior to the issuance of the zoning permit, which shall include:
   a. The anticipated life of the project;
   b. The estimated decommissioning costs net of salvage value in current dollars;
   c. The method of ensuring that funds that will be available for decommissioning and restoration, to include but not limited to:
      i. Complete removal of all no-utility owned equipment, conduit, structures, fencing, roads, solar panels and foundations, and
      ii. Complete restoration of property to condition prior to development of the Solar Energy Facility;
   d. The anticipated manner in which the project will be decommissioned and the site restored.
      i. Decommissioning shall include the removal of each Photovoltaic Panel, all electrical components and associated facilities within the footprint of the Solar Energy Facility to a depth of four feet below grade.
      ii. All access roads to the Solar Energy Facility shall be removed cleared, and graded by the facility owner, unless the property owner requests, in writing, a desire to maintain the access road. The Township will not be assumed to take ownership of any access road, and such remaining roads will not be considered public roads.
      iii. The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the owner of the Solar Energy Facility or its assigns. If the site is not to be used for agricultural purposes following removal, the site shall be seeded to prevent soil erosion, and restored to its condition existing prior to any construction activities, unless the property owner(s) requests, in writing, the land surface areas not be restored.

e. A provision to give notice to the Township one year in advance of decommissioning.
f. A surety bond to assure payment of the cost of decommissioning shall be required. To ensure proper removal of the structure when it ceases to be used for a period of one year or more, any application for a new Solar Energy Facility shall include a description of the financial security guaranteeing removal of the Solar Energy Facility which will be posted prior to receiving a building permit for the facility. The security shall be a: 1) cash bond; 2) irrevocable bank letter of credit; 3) performance bond in a form approved by the Township Board of Trustees. The amount of such guarantee shall be no less than the estimated cost of removal and may include a provision for inflationary cost adjustments. When determining the amount of such required security, the Township Board of Trustees may also require future meetings at pre-set intervals, to establish corrected values for decommissioning. The financial security instrument shall be adjusted to each determined corrected value.
g. The estimate shall be prepared by the engineer for the developer and shall be approved by the Township Board of Trustees.
h. The timeframe for completion of decommissioning activities.
i. A condition of the Surety Bond shall be notification by the surety company to the Township Zoning Administrator 30 days prior to its expiration or termination.

H. **Complaint Resolution.**
1. The Solar Energy Facility Applicant shall submit a detailed, written complaint resolution process developed by the Solar Energy Facility Applicant to resolve complaints concerning the construction or operation of the Solar Energy Facility. The complaint resolution process must be approved by the Planning Commission as a condition of approval of the Special Use permit application.
2. The Planning Commission shall be kept appraised of all complaints and shall receive a report outlining the issues, the progress, and the resolution of each such complaint. Such report shall be presented every six months by the applicant to the Planning Commission.

I. **Conflicting Provisions.** In the event of a conflict between any provision in this section and any section of this Zoning Ordinance with regard to Solar Energy Facilities, the provisions of this section shall control.

SECTION 6.51 SPECIALIZED FARMS

These uses shall be subject to the following:

A. The minimum lot size is 20 acres.

B. The facility shall be designed and operated in a manner that will minimize any detrimental effects on surrounding properties.

C. The facility shall be designed with adequate provisions for animal waste reduction and removal in order to minimize potential odor and health problems.
D. No building or structure housing animals shall be located within 100 feet of any front, side or rear property line.

SECTION 6.52 STABLES (PUBLIC)

This use shall be subject to the following:

A. The minimum area devoted to the use shall be 20 acres. Such area may include pasture and riding trails but shall not include any area devoted to living quarters or other uses not normally incidental to a riding stable. Additional lands may be leased for riding trails only; however, riding areas shall not necessitate riding or leading animals upon or across a public street.

B. The minimum front yard setback is 100 feet.

C. The minimum side and rear yard setback is 50 feet.

D. The premises shall include storage adequate for the disposal of manure and refuse and have adequate insect control methods.

E. Any outdoor area in which animals are kept shall be completely enclosed with a fence which is deemed adequate by the Planning Commission.

F. The facility shall be designed and operated in a manner that will minimize any detrimental effects on surrounding properties.

SECTION 6.53 SURFACE MINING

A. **Location Requirements**. Commercial mineral, stone, gravel, sand, peat, topsoil and similar material/material excavation, mining, processing, and quarrying activities are permitted by Special Use Permit in the A, Agricultural zoning district. For the purposes of this Ordinance, these activities and operations shall be categorized under the term “mining”. Mining, existing on the effective date of this Ordinance, and amendment thereto, shall be subject to the following regulations with regard to future expansion of operations. Future operations shall be considered new operations and shall require a Special Use Permit.

B. **Site Requirements.**
   1. The minimum site area for mining shall be five (5) acres.
   2. The operation shall comply with all applicable Federal, State, and Local regulations.
   3. The operation shall comply with the minimum setback requirements of the underlying zoning district.

4. The Planning Commission may impose reasonable screening and buffering measures as they see fit.

C. **Additional Standards for Approval of a Special Use Permit.** In addition to the standards of Chapter Seven, a decision by the Planning Commission on a mining application shall also be based upon the following standards:
   1. Whether there is a valuable resource located on the site.
   2. Whether there is a need for the resources by the applicant/owner or the market served by the applicant/owner.
   3. If the application were to be granted, that no very serious consequences would result from the proposed extraction of resources. Very serious consequences are defined as follows:
      a. The relationship of extraction and associated activities with existing land uses.
      b. The impact on existing land uses in the vicinity of the property.
      c. The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
      d. The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
      e. The impact on other identifiable health, safety, and welfare interests in the local unit of government.
      f. The overall public interest in the extraction of the specific natural resources on the property.

SECTION 6.54 UTILITY-GRID WIND ENERGY SYSTEMS

This use shall be subject to the following:

A. **Wind Site Assessment.**
   1. Prior to construction of a Utility-Grid Wind Energy System, a wind site assessment is conducted to determine the wind speeds and the feasibility of using the site. Installation of anemometer ("Met") towers shall be considered a special use.
   2. Prior to the installation of the tower, applications for Site Plan Review and a Special Use permit shall be filed with the Portsmouth Township Clerk according to the procedures set forth in Chapter Seven and Eight of this zoning ordinance. An application for a zoning permit shall be completed and submitted to the Zoning Administrator, as described in Chapter Twelve, and shall include the following information in addition to the information requested on the zoning permit application:
      a. Applicant identification
      b. Site Plan
      c. Copy of that portion of the applicant's lease, easement, or other agreement with the landowner granting authority to install the Met tower and requiring the applicant to remove all equipment and restore the site after completion of the wind site assessment

3. The distance from the center of a Met tower and the property lines between the leased property and the non-leased property shall be at least the height of the Met tower. Leased property can include more than one piece of property, and the requirement shall apply to the combined properties. Exceptions for adjacent property are allowed with the written consent of those property owners.

B. **Utility-Grid Wind Energy System Special Use Permit Application.** A Utility-Grid Wind Energy System is designed and built to provide electricity to the electric utility grid. Prior to the installation of a Utility-Grid Wind Energy System, applications for a zoning permit (Chapter Twelve), Site Plan Review (Chapter Eight), and a Special Use permit (Chapter Seven) must be filed and approved by the Portsmouth Township Planning Commission and shall include the following:
   1. Applicant Identification. Applicant name, address, and contact information.
   2. Project Description. A general description of the proposed project including a legal description of the properties on which the project would be located.
   3. Site Plan. The site plan shall include maps showing the physical features and land uses of the project area, both before and after construction of the proposed project. The site plan shall include all required information described in Section 8.05 of the Portsmouth Township Zoning Ordinance. In addition, the site plan shall include the following information:
      a. Project area boundaries.
      b. The location, height, and dimensions of all existing and proposed structures and fencing.
      c. Storage location of all equipment and materials associated with the construction and maintenance of a Utility-Grid Wind Energy System.
      d. The location, grades, and dimensions of all temporary and permanent on-site and access roads, including width and surface material, from the nearest county or state maintained road.
      e. Water bodies, waterways, wetlands, and drainage channels.
      f. Existing infrastructure and utilities that are located underground and above-ground, and
      g. All new infrastructure that is located underground and above-ground related to the project.
   4. Fees. An applicant shall remit an application fee in the amount specified in the fee schedule adopted by the Portsmouth Township Board of Trustees. This schedule shall be based on the cost of the application review and may be adjusted from time to time.
   5. Engineering Data. Engineering data concerning construction of the wind turbine lower and bases or foundations, which must be engineered and constructed in such a manner that upon removal of said towers, the soil will be restored to its original condition to a depth of three (3) feet.
   6. Maintenance Schedule. Anticipated construction schedule, and description of operations, including anticipated regular and unscheduled maintenance.
   7. Consent Documents. Copies of any written waivers from adjacent property owners.
   8. Sound Pressure Level. Copy of the modeling and analysis report.
   9. Certifications. Certification that the applicant has complied or will comply with all applicable state and federal laws and regulations. Copies of all such permits and approvals that have been obtained or applied for at time of the application.

10. Visual Impact. Visual simulations of how the completed project will look from four viewable angles.
11. Environmental Impact. Copy of the Environmental Impact analysis.
12. Avian and Wildlife Impact. Copy of the Avian and Wildlife Impact analysis.
13. Shadow Flicker. Copy of the Shadow Flicker analysis.
14. Manufacturer's Material Safety Data Sheet. Documentation shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to all lubricants and coolants.
15. Decommissioning. Copy of the decommissioning plan.
16. Complaint Resolution. Description of the complaint resolution process.
17. Map of Electromagnetic Interference.

C. **The Utility-Grid Wind Energy System Shall Meet the Following Standards and Requirements.**

1. Property Setback.
   a. The distance between a wind turbine within a Utility-Grid Wind Energy System and the property lines of adjacent non-leased properties shall be 800 feet, measured from the centerline of the base of the wind energy tower to the property line of adjacent non-leased properties.
   b. The distance between a wind turbine within a Utility-Grid Wind Energy System and internal property lines of leased property lines shall be at least 1.10 times the height of the wind energy system tower including the top of the blade in its vertical position.
   c. The distance between a wind turbine within a Utility-Grid Wind Energy System and public rights-of-ways and roads shall be at least 1.50 times the height of the wind turbine, measured from the top of the blade in its vertical position to the centerline of its base, to the nearest edge of the public right-of-way or road.
   d. Where property is leased on both sides of a public right-of-way, excluding roads, a wind energy system may be placed no closer than one rotor radius from the closest edge of the right-of-way. Leased property and the requirement shall apply to the combined properties.
   e. SCADA (supervisory control data acquisition) or meteorological (Met) towers shall also comply with the property setback requirement. The setback shall be at least the height of the SCADA or Met tower.
   f. An Operations and Maintenance Office building, a sub-station, and/or ancillary equipment shall comply with any property set-back requirement that may be applicable to that type of building or equipment.
   g. Overhead transmission lines and power poles shall comply with the setback requirements applicable to public utilities.
   h. Exceptions for adjacent property or public rights of way are allowed with the written consent of those property owners. Written consent letters must be submitted at the time of the public hearing for the special use permit.
2. Other Required Setbacks.

a. The distance between a wind turbine within a Utility-Grid Wind Energy System and a habitable structure on leased property shall be at least 1.5 times the height of the wind energy system tower including the top of the blade in its vertical position, measured from the centerline of the base of the wind energy tower to the nearest edge of the habitable structure. Extensions for adjacent property owners are allowed with the written consent of those property owners. In these cases, the distance between a wind turbine within a Utility Grid Wind Energy System and a habitable structure on leased property shall be at least the height of the wind energy system tower including the top of the blade in its vertical position, measured from the centerline of the base of the wind energy tower to the nearest edge of the habitable structure. Written consent letters must be submitted at the time of the public hearing for the special use permit.
b. Turbine/tower separation shall be based on: Industry standards, manufacturer recommendation, and the characteristics of the particular site location. At a minimum, there shall be a separation between towers of not less than three (3) times the rotor diameter, and Utility-Grid Wind Energy System shall be designed to minimize disruption to farmland activity. Separation between turbines with different rotor sizes shall be not less than three (3) times the diameter of the smaller rotor. Documents shall be submitted by the applicant confirming specifications for turbine/tower separation.
c. A wind turbine in a Utility-Grid Wind Energy System that is proposed to be located upon a shared property boundary may be exempt from the side and rear setbacks requirements of Section 5.04 if the site plan submittal contains appropriate documentation demonstrating that a legally-binding easement agreement between the owners of the property with the shared boundary has been recorded with the Bay County Register of Deeds. This exemption applies only to leased property that is part of a Utility-Grid Wind Energy System. Distances from habitable structures as required under “Other Required Setbacks” (Section 14.04(j)3.b.(1) from above) shall be maintained.

3. Sound Pressure Level.
   a. The sound pressure level generated by a Utility-Grid Wind Energy System shall not exceed 55 dB(A) measured at the property lines between leased and non-leased property. Exceptions to this requirement are allowed with the written consent of property owners. This sound pressure level shall not be exceeded for more than three (3) minutes in any hour of the day. If the ambient dB(A) plus five (5) dB(A).
   b. As part of the application and prior to installation, the applicant shall provide modeling and analysis that will confirm that the Utility-Grid Wind Energy System will not exceed the maximum permitted sound pressure levels.
   c. Modeling and analysis shall conform to IEC 61400 and ISO 9613.
   d. After installation of the Utility-Grid Wind Energy System, sound pressure level measurements shall be done by a third party, qualified professional according to the procedures in the most current version of ANSI S12.18. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter.

e. Documentation of the sound pressure level measurements shall be provided to the Portsmouth Township Planning Commission within sixty (60) days after construction is completed on the wind energy system project.

4. Construction Codes, Towers, and Interconnection Standards.
   a. Utility-Grid Wind Energy Systems including towers shall comply with all applicable state construction and electrical codes and local building permit requirements, stamped and sealed by a professional engineer registered in the State of Michigan.
   b. Utility-Grid Wind Energy Systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Zoning Enabling Act (Public Act 110 of 2006, as amended), the Michigan Tall Structures Act (Public Act 259 of 1959), and local jurisdiction airport overlay zone regulations.
   c. The minimum FAA lighting standards shall not be exceeded. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FFA.
   d. Utility-Grid Wind Energy Systems shall comply with applicable utility, Michigan Public Service Commission, and Federal Energy Regulatory Commission interconnection standards.
5. Safety.
   a. All Utility-Grid Wind Energy Systems shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present.
   b. All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the wind energy system.
   c. A sign shall be posted near the tower or Operations and Maintenance Office building that will contain emergency contact information. Signage placed at the road access shall be used to warn visitors about the potential danger of falling ice.
   d. The minimum vertical blade tip clearance from the grade shall be 35 feet for a wind energy system employing a horizontal axis rotor.'
6. Visual Impact:
   a. Utility-Grid Wind Energy System projects shall use tubular towers and all turbines in a project shall be finished in a single, non-reflective matte finish color.
   b. A project shall be constructed using turbines of similar design, size, operation, and appearance throughout the project.
   c. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification.
   d. The applicant shall void any state or federal scenic areas and significant visual resources listed in planning documents adopted by Portsmouth Township.

7. Environmental Impact:
   a. The applicant shall have a third party, qualified professional conduct an analysis to identify and assess any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any effects or concerns that will remain after mitigation efforts.
   b. The applicant shall comply with applicable parts of the Michigan Natural resources and Environmental Protection Act (Act 450 of 1944, MCL 324.101 et seq.) including but not limited to Part 31 Water Resources Protection (MCL 324.3101 et seq.), Part 91 Soil Erosion and Sedimentation Control (MCL 324.910 et seq.), Part 301 Inland Lakes and Streams (MCL 324.30101 et seq.), Part 303 Wetlands (MCL 324.30301 et seq.), Part 323 Shoreland Protection and Management (MCL 324.32301 et seq.), Part 325 Great Lakes Submerged Lands (MCL 324.32501 et seq.), and Part 353 Sand Dunes Protection and Management (MCL 324.35301 et seq.).
   c. The applicant shall be responsible for making repairs to any public roads damaged by the construction of the Utility-Grid Wind Energy System. In addition, the applicant shall submit to Portsmouth Township and the appropriate Bay County office(s):
      i. A description of the routes to be used by the construction and delivery vehicles.
      ii. Any road improvements that will be necessary in Portsmouth Township to accommodate construction vehicles, equipment or other deliveries.
      iii. An agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the Utility-Grid Wind Energy System.
8. Avian and Wildlife Impact:
   a. The applicant shall have a third party, qualified professional conduct an analysis to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.
   b. Sites requiring special scrutiny include bird refuges and other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sites that are frequented by federally listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors.

      At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, and general avian use should be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law.

The analysis shall indicate whether a post construction wildlife mortality study will be conducted and, if not, the reasons why such a study does not need to be conducted. Power lines should not be placed underground, when feasible, to prevent avian collisions and electrocutions. All above-ground lines, transformers, or conductors should comply with the Avian Power Line Interaction Committee (APLIC, http://www.aplic.org/) published standards to prevent avian mortality.

9. Electromagnetic Interference.
   a. No Utility-Grid wind energy system shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to the level present before operation of the wind energy system.
   b. No Utility-Grid Wind Energy System shall be installed in any location within the line of sight of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation unless the interference is significant.
10. Shadow Flicker.
    a. The applicant shall conduct an analysis on potential shadow flicker at occupied structures.
    b. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year.
    c. The analysis shall identify problem areas where shadow flicker may affect the occupants of the structures and describe measures that shall be taken to eliminate or mitigate the problems.
11. Decommissioning. The applicant shall submit a decommissioning plan. The plan shall include:
    a. The anticipated life of the project.
    b. The estimated decommissioning costs net of a salvage value in current dollars.
    c. The method of ensuring the funds will be available for decommissioning and restoration.
    d. The anticipated manner in which the project will be decommissioned and the site restored.
12. Storage and Equipment. All materials and equipment associated with construction and maintenance of a Utility-Grid Wind Energy System shall be stored in an enclosed structure designated for the purposes of storing said equipment.
13. Performance Guarantee. To ensure compliance with the provisions of the Portsmouth Township zoning ordinance and any conditions imposed, a cash deposit, certified check, irrevocable bank letter credit, or surety bond acceptable to the Township covering the estimated cost of improvements associated with a Utility-Grid Energy System project shall be deposited with the clerk of the Township to ensure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the project. Deposit of the performance guarantee is not required prior to the issuance of said permit. The Township may return unused portions of the cash deposit to the applicant in reasonable proportion to the ratio of the work completed on the required improvements as work progresses.

14. Complaint Resolution.
    a. The applicant shall develop a process to resolve complaints from nearby residents concerning the construction or operation of the project and submit for review to Portsmouth Township.
    b. The process shall not preclude Portsmouth Township from acting on a complaint.
    c. During construction, the applicant shall maintain a telephone number during business hours where nearby residents can reach a project representative.
15. Utility-Grid Wind Energy Exclusion Zone: All proposed wind turbines that are part of a Utility-Grid Wind Energy System are subject to the Exclusion Zone.
    a. It is the intent and purpose of the Utility-Grid Wind Energy Exclusion Zone to provide residents of Portsmouth Township relief in specified areas from wind turbines. Portsmouth Township permits Utility-Grid Wind Energy Systems as a special use requiring a Special Use Permit in the Agricultural Estate District (A-E) only.

SECTION 6.55 VETERINARY CLINIC (SMALL ANIMALS)

Such uses shall be subject to the following:

A. Such hospital or clinic, including all treatment rooms, cages, pens or runways, shall be located within a completely enclosed building so that sound will be kept within the building.

B. The building shall have and maintained central air conditioning so that windows will not be open.

C. The use shall be operated in such a way as to produce no objectionable odors or noise outside its walls.

D. Main buildings shall have a minimum setback of one hundred (100) feet from any Residential District unless separated from the use by a major or secondary thoroughfare.

E. Customer service entrances to said use shall not be from an area which serves as a common entrance to other areas.

SECTION 6.56 VETERINARY HOSPITALS

This use shall be subject to the following:

A. The minimum lot size is three (3) acres.

B. The minimum lot width is 300 feet.

C. All buildings, runways, cages, pens and any outside area where animals may be kept or exercised shall not be located closer than 100 feet of any property line. The Planning Commission may require that all animals be kept within a building at all times if it determines that the outside keeping or exercising of animals would have a detrimental effect on other properties in the vicinity.

D. Adequate off-street parking shall be provided in accordance with the requirements of Chapter Nine.

E. Fencing and/or greenbelts may be required alongside and rear property lines if the Planning Commission determines that they are necessary to prevent adverse impacts on adjacent properties.

SECTION 6.57 WORM FARMS

This use shall be subject to the following:

A. The application and site plan shall include:
   1. A full legal description of the premises wherein the operation is proposed.
   2. A detailed proposal disclosing the limits of the area proposed for the operation, to include the maximum depth of any excavation or fill area, proposed finish grade, and the manner in which the land will be restored following the termination of the operations so the land will not remain devastated beyond any reasonable use.
   3. Detailed information as to the method of operation, type of machinery and equipment to be used.
   4. If on-site soils are being blended with compost to produce finished products a topographic survey map on a scale not less than one (1) inch equaling 100 feet, showing on a five (5) foot interval, existing grades of the proposed excavation and the finished grades. The perimeter of each phase to be excavated will be specifically defined on the topographic map. No use of land will be allowed outside of agreed upon perimeters, including, excavating of any kind or storage of equipment or any debris such as trees or stumps. The topographic map shall be amended annually to include the proposed area to be excavated in each phase. Said map to be prepared and sealed by a registered civil engineer or land surveyor.
   5. An estimated period of time such operation will take if it is not intended to be an on-going operation.
   6. Detailed information regarding the type of material to be deposited on the site such as leaves and grass clippings and an estimate of the total cubic yards to be deposited on an annual basis. No contaminated or hazardous material shall be delivered to the site unless it is disclosed and approved as part of the original special use permit or an amendment.
   7. A detailed explanation of the procedures that will be taken to prevent odors and methods that will be used to eliminate odor problems should they occur.

8. Names and addresses of parties of interest in said premises and their legal interest, along with telephone numbers of responsible persons involved in said operations, who may be reached between 8:00 AM and 5:00 PM daily, as well as hours after daily operations, shall be contained in one document and submitted to the Township Clerk and the Township Inspector and the appropriate emergency services.

B. The minimum lot size is 20 acres.

C. The parcel must have a minimum of 300 feet of frontage on a state highway or county primary road as designated by the Bay County Road Commission.

D. Routes for trucks hauling materials to the site or products from the site shall be approved by the County Road Commission under such conditions and securities as may be imposed by the Township or County to protect or repair the roads and to ensure the safety of the public.

E. No finished slopes shall at any time exceed 33 1/3 percent.

F. No excavation other than those which are incidental to building, structure or public utility construction, shall be permitted below the grade of any adjoining public street or abutting property under different ownership for a distance of not less than 75 feet with final setback determined by the Planning Commission subject to the site plan information submitted.

G. A 50-foot-wide greenbelt shall be preserved as part of the 75-foot setback, developed and maintained around the perimeter of the mining property to provide noise and dust protection. In the absence of an adequate greenbelt, a combination of shrubs and earth berm 6 feet to 8 feet in height may be required, depending on the adjoining property protection needs and wind direction.

H. The processing plant, if any, and its accessory structures shall not be located closer than 200 feet from property lines and public right-of-way or less than 500 feet from any residence and shall, where practicable, be as close to the center of the subject property as possible. The Planning Commission reserves the right to approve the location of the plant.

I. No dust, dirt or debris emanating from the operation shall at any time be permitted to be deposited upon adjoining premises to such an extent as to be a nuisance or annoyance to the occupants thereof.

J. No processing shall be permitted at any time prior to 7:00 AM and subsequent to 5:30 PM daily. Maintenance and repair shall be permitted between 7:00 AM and 7:00 PM. No operations shall be allowed on Sundays or legal holidays.

K. To avoid being a nuisance or annoyance, noise levels shall not exceed 65 decibels at any residence or permanent dwelling.

L. No natural drainage shall be materially changed or altered in any manner that would adversely affect adjoining premises. Adequate drainage facilities shall be provided to prevent standing water ponds.

M. No excavation shall take place within 500 feet of the margin of any stream or waterway unless previously approved, in writing, by the Michigan Department of Natural Resources. The Planning Commission shall have the right to require an applicant to construct adequate sediment basins if it appears that substantial sediment may be carried into any nearby water course.

N. Special use permits granted herewith may be limited in time, subject to review by the Planning Commission.

O. No composting operation covered by this Ordinance shall be commenced, or shall hereafter continue, until a performance bond has been filed with the Township Clerk in the amount of not less than $3,000 per acre contained in that portion of the plan required to be filed with the Township under Paragraph one being proposed to be used within the ensuing 12 month period, guaranteeing the satisfactory performance of all the regulations herein contained. Such bond shall, at no time, be less than $3,000. No performance bond filed with the Township shall be released until all Ordinance regulations have been fully complied with including restoration.

P. All applicants shall be required to carry personal injury property damage insurance, while the facility is being operated, in the amount $1,000,000 for each occurrence. Such insurance shall cover injury or damage occurrence upon the site of the operations as well as upon properties adjoining thereto, as the result of conditions or activities existing upon the site. Such policies shall be filed with the Township Clerk.

Q. Due to the unusual problems and time required for the inspection and monitoring of a composting operation, a reasonable fee may be required to be deposited with the Township Clerk. The fee shall be based on an estimate of the cost to monitor and inspect the site in order to determine if there is compliance with the requirements of the permit. The fee may include the cost of inspectors, surveyors, engineers, attorneys and other required professionals. The Township shall provide the applicant with an accounting of all disbursements. If an additional deposit is required it shall be submitted within 30 days of a written request and any unused portion of the fee shall be returned to the applicant upon the completion of all activities.

R. Sufficient off-street parking shall be required on the site for trucks servicing the operation. No parking will be allowed on the roadside of road right-of-way. To minimize the potential for fuel spills, and possible soil contamination during equipment and truck refueling, an on site refueling area shall be required for use with either fuel pumper trucks, or on site fuel storage tanks. Said area shall be placed as a catch basin, capable of containing any fuel spillage. The basin shall be bermed, rubber lined and equal to the size of the storage tank. A remediation plan shall be submitted to the Township and the appropriate fire department. Caution or truck crossing signs shall be provided on public roads, measuring at least three (3) feet square to identify truck entrances and exits. Said entrances and exits shall be repaired and maintained by the mining operator to ensure safety and visibility. Dust, loose gravel, mud and chuckholes all create dangerous and hazardous road conditions. If any of these conditions exist, they shall be alleviated daily. A stop sign shall be erected and maintained by the owner/operator at all egress roads of the disposal area. Under no circumstances shall trucks use private drives or private access routes from the applicants' property which are within 150 feet of any residence.

S. A prestart up meeting shall be instituted at least one week prior to the start of operations which shall include the Chairperson of the Planning Commission, a representative of the Township Board, the operations on site foreman and the appointed Township Inspector. A prestart up meeting shall be required for each phase of the remaining years of a permit to allow review of the permit requirements, zoning ordinances and any other issues. The operator is required to present proof of all documents as determined by the Ordinance and the Planning Commission prior to the prestart up meeting before receiving the Special Use Permit. No permit shall be granted until the applicant has satisfied all prerequisites, and the prestart up committee has reviewed and approved them. No activity will be allowed on site until such time as all criteria have been met and the permit has been issued.

T. The following procedures shall be imposed for violation of the Ordinance or conditions of the permit:
   1. First Offense – a verbal warning followed by a written notice of the violation with a specified time limit in which to comply, not-to-exceed one working day. Failure to comply in the stated time results in a second offense.
   2. Second offense of same violation – stop work order followed by a written notice of the violation. Stop work order continues until the violation is corrected or the mining operation submits in writing their plan to remedy the violation.
   3. Third offense of same violation – stop work order followed by written notice of violation. Stop work order continues until Planning Commission can schedule a hearing. The chairperson of the Planning Commission will call a special meeting within two days of issuance of the stop work order.

CHAPTER SEVEN. SPECIAL USES

SECTION 7.01 INTENT

The provisions of this Chapter are intended to set forth the procedures and standards applicable to certain land uses, structures, or activities as identified in the various zone districts which because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and/or the community as a whole. Due to these characteristics, the use of certain purposes in certain districts will not be permitted without first obtaining a special use permit from the Planning Commission.

SECTION 7.02 GENERAL STANDARDS

In formulating recommendations or approving any special use, the Planning Commission shall require that the following general standards be satisfied:

A. Upon review of each application there shall be a determination as to whether each use on the proposed site will:
   1. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the area in which the use is proposed.
   2. Be adequately served by essential facilities and services such as highways, streets, police and fire protection, drainage, refuse disposal, water and sewer facilities, and schools.
   3. Not create excessive additional requirements at public facilities and services.
   4. Not cause traffic congestion, conflict, or movement in greater proportion to that normally prevailing for the use in the particular zoning district.
   5. Not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason or noxious or offensive production of noise, smoke, fumes, glare, vibration, odor, or traffic.
   6. Be consistent with the intent and purpose of this Ordinance and with the goals and objectives of the current Township Master Plan.

B. All applicable federal, state and local licensing regulations shall be complied with. Initial and annual proof of such compliance shall be a condition of special use approval and the continuance thereof.

C. As a minimum, the dimensional standards and landscape, buffering, and parking regulations otherwise applicable to the use and/or zoning district shall be maintained as outlined within the other various applicable chapters of this Ordinance. For uses permitted by right in one (1) district but which require special use approval in another district, the standards relating to the district in

which the use is permitted by right shall serve as the minimum standards to which the site shall be designed. In such cases where there are conflicting standards, the most restrictive shall apply, unless specifically modified by the Planning Commission.

D. Upon review, the Planning Commission may stipulate such additional conditions and safeguards deemed necessary for the protection of individual property rights and values, the general welfare, and for ensuring that the intent and objectives of this Ordinance are observed**.**

E. Properties for which an application for special use permit approval is made shall also be subject to site plan review in accordance with the requirements of Chapter Eight. Failure to obtain site plan approval within six (6) months will constitute denial of the approved special land use.

SECTION 7.03 SUBMITTAL REQUIREMENTS

Any person owning or having an interest in the subject property may file an application for one (1) or more special use permits in the zoning district in which the land is situated. An application for permission to establish a special use permit shall be submitted and acted upon in accordance with the following procedures:

A. **Submittal Requirements.** The following materials shall be submitted to the Zoning Administrator at least thirty (30) days prior to the meeting at which the Planning Commission will first consider that application for special land use.
   1. Three (3) copies of the completed forms.
   2. Three (3) full size copies of the required site plan plus ten (10) copies in an 11” x 17” formatting meeting the requirements of Section 8.05.
   3. Required fees.
   4. Applicant and ownership information.
      a. Applicant’s name and address
      b. A statement indicating the relationship of the Applicant to the Owner of the property.
      c. The name, address, and current phone number of the property owner, if the Applicant is not the owner.
      d. The address and parcel number of the property.
   5. A detailed statement describing all proposed activities for which the property will be used, including proposed hours of operation, building capacity, and other specific characteristics of the particular use.
   6. The Planning Commission may require an analysis of the Planning implications to the proposed use or development. The analysis shall be carried out by qualified third-party professionals and shall include, but not be limited to:
      a. Potential impacts of the proposed use on abutting properties or the surrounding area, along with a description of the proposed mitigation methods to address these impacts.

b. Estimated population for any residential land use to be included in the proposed development, and a general description of the scope of any impacts on community facilities such as schools and parks.
c. A traffic analysis that related the trip-generating capacity of the proposed development to existing and projected traffic volumes and patterns on the surrounding area.
d. An environmental assessment.
e. An analysis of project impact on municipal services and public utilities, including capacity in relation to proposed development, improvements necessitated any development and proposed means of financing needed improvements.

SECTION 7.04 PROCESS

A. **Submittal.** An application for a special use permit shall be submitted to the Township Clerk on a form prepared for that purpose, together with a site plan prepared to the specifications contained in Chapter Eight of this Ordinance. Each application shall be accompanied by the payment of fee as determined by the Township Board. In the event the allowance of a proposed use requires both a rezoning and a special use permit, the application for rezoning shall be processed in its entirety prior to final action on the special use.

B. **Initial Review.** After submittal of the application to the Township Clerk, the Clerk shall provide the application to the Zoning Administrator. The Zoning Administrator will review the application to ensure that it is complete. If complete, the Zoning Administrator will work with the appropriate departments to begin the special use permit approval process. If incomplete, the Zoning Administrator will return the application with a written description of the missing items.

C. **Required Notification.** Upon confirmation of a complete application from the Zoning Administrator, the Township will publish a notice and notify property owners pursuant to Chapter 12, Section 12.06 of this Ordinance.

D. **Planning Commission Public Hearing**. The Planning Commission shall review and hold a public hearing on the application in accordance with the procedures outlined in Chapter 12, Section 12.06 of this Ordinance.

E. **Planning Commission Action.** The Planning Commission shall have final review authority for all special land uses. The Planning Commission shall, within a reasonable time after the public hearing recommend, deny, approve, or approve with conditions of the proposed special use based on the materials received by the applicant and the testimony recorded at the public hearing.
   1. The decision by the Planning Commission shall be incorporated in a statement containing the conclusions relative to the special use under consideration, which specifies the basis for the decision and any conditions imposed.

F. **Issuance of Permit.** Upon approval of the special use permit and site plan, the Zoning Administrator shall issue the special use permit. The Zoning Administrator shall be responsible for ensuring that any conditions attached to the approval are followed and enforced.

G. **Effect of Denial.** No application for a special use permit which has been denied by the Planning Commission shall be resubmitted for a period of one year from the date of denial, except on the grounds of new evidence or proof of changed conditions found to be valid by the Zoning Administrator.

SECTION 7.05 PERMITTED SPECIAL USES AND SPECIFIC REQUIREMENTS

Special uses are permitted in the various zone districts as provided in Table 4.0 of Chapter Four and in accordance with the specific requirements of the corresponding approval standard for each use found within Chapter Six of this Ordinance.

SECTION 7.06 VALIDITY, EXPIRATION, SUSPENSION, OR REVOCATION

A. **Expiration.** A special use permit approval shall be valid for one (1) year from the date of approval, unless the special use permit has been initiated, or construction necessary for such use has been initiated and is proceeding meaningfully toward completion, in which case the approval shall remain valid indefinitely. If, by the end of this one (1) year period, the special use permit has not been initiated or construction necessary for such use has not been initiated but is not proceeding meaningfully toward completion, then the special use permit shall be deemed expired and no longer valid.

B. **Validity.** A special use permit approval, including conditions imposed, is attached to and shall run with the land for which the approval is granted, and shall be binding upon subsequent owners and all occupants of the subject land. Said permit shall be on file with the Zoning Administrator

C. **Discontinuance of Use.** Any use for which a special use permit has been granted, and which ceases to continuously operate for a one (1) year period shall be considered abandoned and the special use permit shall become null and void.

D. **Compliance Required.** It shall be the responsibility of the owner of the property and the operator of the use for which a special use permit approval has been granted to develop, improve, operate and maintain the use, including the site, structures and all site elements, in accordance with the provisions of this Chapter and all conditions tied to the special use permit until the use is discontinued.
   1. Failure to comply with the provisions of this Chapter shall be a violation of the use provisions of this Chapter and shall be subject to the same penalties appropriate for a use violation.
   2. The Zoning Administrator shall make periodic investigations of developments authorized by the special use permit to determine compliance with all permits and ordinance requirements.

E. **Revocation of Approval.** Upon finding that the use has not been improved, constructed, or maintained in compliance with this Chapter or the approved permit, the Zoning Administrator may suspend or revoke the special use permit issued under the provisions of this Ordinance.

F. **Reapplication.** Reapplication for approval of an expired special use permit shall be considered in the same manner as the original application.

SECTION 7.07 SPECIAL USE PERMIT AMENDMENTS

A. **Amendments.** Any person or agency who has been granted a special use permit shall notify the Zoning Administrator of any proposed amendment to the approved site plan for the special land use. The Zoning Administrator shall determine whether the proposed amendment constitutes a minor or major amendment based on the determination standards for all site plans in accordance with the requirements of Chapter Eight. A major amendment to a special use permit shall comply with the application and review procedures contained in this Chapter.

B. **Expansion or Change in Use.** The expansion, change in activity, reuse, or redevelopment of any use requiring a special use permit approval, with an increase of ten (10) percent or greater, shall require re-submittal in the manner described in this Chapter. A separate special use permit application shall be required for each use requiring special use permit review on a lot, or for any expansions of a special use permit on property which has not previously received special use permit approval.

SECTION 7.08 PERFORMANCE GUARANTEE

A. **Guarantee.** When deemed necessary, the Planning Commission may, as a condition of approval, require filing a performance or surety bond with the Township Clerk to ensure construction of certain site improvements or development features. The bond shall meet the requirements outlined in Section 12.08 of this Ordinance.

CHAPTER EIGHT. SITE PLAN REVIEW

SECTION 8.01 PURPOSE

It is the purpose of this Chapter to specify the documentation required for administrative approval or site plan approval for any proposed land use changes, provide an outline for the Township Planning Commission and Zoning Administrator to ensure applications receive timely and consistent review, and ensure that development in the Township is consistent with this Ordinance promoting:

A. Safe and convenient traffic movement, both within a site and in relation to access to streets.

B. Harmonious relationships of buildings, structures and uses, both within a site and with adjacent sites.

C. Conservation of natural amenities and resources.

D. Compliance with the provisions of this Ordinance and all other applicable Township, state and federal laws.

SECTION 8.02 APPROVAL MATRIX

Table 8-1 Site Plan Requirements

TYPE OF USE	PLAN REQUIRED	APPROVING BODY
Single-Family Detached Dwellings	Plot Plan	Zoning Administrator
Adult Foster Care Family Homes and State Licensed Residential Facilities*	Plot Plan	Zoning Administrator
Duplexes	Plot Plan	Zoning Administrator
Single-Family Attached Dwellings	Site Plan	Planning Commission
Multiple-Family Dwelling Units	Site Plan	Planning Commission
Special Land Uses	Site Plan	Planning Commission
Parking Lots **	Plot Plan	Zoning Administrator
Change of Use (provided the use is permitted in the district, there are no alterations to the footprint, and no additional parking is required)	Plot Plan	Zoning Administrator
Accessory Buildings, Decks, and Fences	Plot Plan	Zoning Administrator
New Commercial, Office, Industrial, Energy, and Institutional Uses	Site Plan	Planning Commission
Expansion of existing development (that originally required Planning Commission approval) when the project involves increasing the footprint by twenty (20%) percent or more of the original site plan.	Site Plan	Planning Commission
Expansion of a legal nonconforming use, building or structure as per Section 4.24	Site Plan	Planning Commission
Essential Services	Plot Plan	Zoning Administrator
Temporary Uses	Plot Plan	Zoning Administrator
*If not permitted as a special land use in the subject zoning district.		
**If more than four (4) additional parking spaces, a site plan at the Planning Commission is required.		

SECTION 8.03 PRE-APPLICATION CONFERENCE

The Zoning Administrator, alone or in conjunction with the Planning Commission Chair, Township Supervisor, and/or other relevant staff or consultants shall have the authority to conduct a pre-application meeting with the applicant/developer to assist them in understanding the site plan review process and other Ordinance requirements and to provide insight as to what portions of their proposed development may be of special concern to the Planning Commission.

This conference is not mandatory but is recommended for small and large projects alike. For large projects, a pre-application conference should be held several months in advance of the desired start of construction. Such an advance conference will allow the applicant/developer time to prepare the needed information for the Planning Commission to make a proper review.

SECTION 8.04 REQUIREMENTS AND PROCESS FOR A PLOT PLAN

A. **Process.** The Zoning Administrator may review and approve plot plans or some amendments to site plans without submission to the Planning Commission. After a plot plan has been submitted, the applicable fees have been paid, and the plan is approved by the Zoning Administrator, they will issue a zoning permit per Section 12.05. The Zoning Administrator, at their discretion, may defer any plot plan to the Planning Commission for review and approval.

B. **Data Required.** The Plot Plan, drawn to scale shall contain the following items and shall be submitted with an application form provided by the Township. The Zoning Administrator may waive any of the plot plan requirements listed below when they find those requirements are not applicable or necessary.

Table 8-2 Plot Plan Requirements

REQUIREMENT	DESCRIPTION
Location	Address or legal description of the property where the proposed use will occur.
Contact Information	Name, address, email, and telephone number of the property owner(s), applicant(s), and designer(s), and their interest in the property.
Legal Possession	Proof of legal possession of the land for the proposed use.
Property Lines	The shape, location, and dimensions of the lot and property lines, drawn to scale. When deemed necessary by the Zoning Administrator, a survey may be required. The scale, north arrow, and date.
Setbacks	Location of required setbacks of the zoning district.
Structures and Materials	The location, shape, dimensions, and height of all structures or impervious surfaces to be erected, altered or moved onto the lot and of any building or other structure already on the lot, drawn to scale. The materials out of which the proposed construction is to be made. In addition, an elevation drawing of the proposed building(s) may be required by the Zoning Administrator in order to measure the height of the proposed structures.
Access	The location and configuration of the lot access and driveway, drawn to scale.
Type of Use	The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
Rights-of-Way and Easements	The location and width of all abutting rights-of-way, easements, and public open spaces within or bordering the parcel.
Natural Features	Natural features such as forests, water bodies, wetlands, high risk erosion areas, slopes over 10%, drainage and other similar features, if determined by the Zoning Administrator to be applicable.
Landscaping	All landscaping that will be installed on the property.
Other	Other information concerning the lot or adjoining lots that may be essential for determining whether the provisions of this Ordinance are being observed, as deemed necessary by the Zoning Administrator.

SECTION 8.05 SITE PLAN APPROVAL[MD1] AND REQUIREMENTS

A. The Planning Commission shall have the authority to review and approve or deny all site plans, taking into consideration the recommendations of the Zoning Administrator. Prior to the issuance of a zoning permit or construction commencement, a site plan review and approval is required.

B. Every site plan submitted to the Planning Commission shall be in accordance with the requirements of this Chapter and shall be reviewed by the Zoning Administrator prior to submission to the Planning Commission for compliance with the minimum standards of this Chapter. The following information shall be included on the site plan:
   1. General Requirements.
      a. Contact information, including name, phone number, and address, for the Applicant and/or Owner and the professional responsible for the preparation of the site plan. If Applicant is different from Owner, a signed statement from the Owner that the Applicant is acting on their behalf.
      b. Date, north arrow, scale, existing zoning of subject parcel, zoning of adjacent parcels, legal description, and easements.
      c. A location map that shows the location of the project in broad context of the Township.
      d. Site Plans shall be drawn to a scale so that all features required to be shown on the plan are readily discernible. The Zoning Administrator shall make the final determination whether the plans are drawn to a suitable scale.
      e. The dimensions of all lot and property lines for the proposed and adjacent parcels, showing the relationship of the subject property to the abutting properties and a boundary survey of the parcel, when required by the Zoning Administrator.
      f. Plans submitted for site plan review shall be stamped by a design professional licensed by the State of Michigan such as an Architect, Engineer, Surveyor, or Landscape Architect, if required.
      g. The location and rights-of-way widths for all existing and proposed streets and alleyways, and the location of all existing and proposed drives, walks, and parking areas. The existing driveways on adjacent parcels. Dimensioned parking spaces and calculation, surfacing, and number and location of accessible spaces.
      h. The location and size of any existing or proposed aboveground or underground public infrastructure and utilities including sanitary sewer lines, water lines, storm drainage and associated facilities and structures, and electric, natural gas, telephone, cable TV, internet, and solid waste disposal.
      i. Existing and proposed topography on the site and beyond the site for a distance of 100 feet in all directions, and a grading plan showing finished contours at a maximum interval of two (2) feet, correlated with existing contours so as to clearly indicate required cutting, filling and grading.
      j. Location of existing natural features such as wooded areas, floodplain, wetlands, drainage courses showing the direction of flow, and bodies of water and any areas to remain as open space.

k. The location, dimension, and height of all existing and proposed structures on the subject property and all existing structures within 100 feet of the subject property. The setback and yard requirements for each structure on the subject property.
l. A finished floor elevation and exterior building elevations.
m. The location and size of all existing and proposed loading/unloading areas.
n. The location and size of all existing and proposed landscaping, berms, fencing and walls.
o. The location and size of all existing and proposed trash receptacles and proposed method of screening.
p. The location, height area of illumination, and fixture details of all existing and proposed lighting. All lighting shall be oriented to have minimal impact on adjacent properties.
q. The size, height, location, and illumination of all existing and proposed signs.
r. An explanation of the proposed use, hours of operation, and the usable floor area and number of employees.

2. Standards for Residential Projects. Site plans for residential projects (multiple family developments and manufactured home parks) shall include the following additional information:
   a. Floor area of dwelling units.
   b. Total number of units proposed per building.
   c. Density calculations.
   d. Areas to be used for open space and recreation.
   e. Carport/garage locations.
   f. Schematic plans and elevations of all structures exceeding five thousand (5,000) square feet of total floor area must be included.
3. Phased Construction. Where phases or staged construction is contemplated for the development of a project, the site plan submitted must show the interrelationship of the proposed project to the future stages, including the following:
   a. Relationship and identification of future structures.
   b. Pedestrian and vehicular circulation.
   c. Time schedule for completion of the various phases of the proposed construction.
   d. Temporary facilities or construction of same as required to facilitate the stated development.
4. Other.
   a. Other information as requested by the Zoning Administrator or Planning Commission to verify that the site and use are in compliance with this Chapter. This may include:
      i. Certifications from appropriate agencies that proposed utility systems are or will be adequate to handle the proposed development.
      ii. Legal documentation establishing property owner associations or other legal entities responsible for control over required common areas or facilities.
      iii. Bonds, letters of credit or other surety devices.
      iv. Time schedules for the completion of phases in staged development.
      v. A fiscal impact analysis of the development indicating any effects on the Township and other governmental units.

b. The Zoning Administrator or Planning Commission may waive any of the above requirements determined to be unnecessary for the site plan review process of the subject property.

SECTION 8.06 SUBMITTAL AND REVIEW PROCESS

A. **Number of Copies.** The applicant shall submit eight (8) copies, including one (1) digital copy, of the required Site Plan and related documentation to the Planning Commission for review.

B. **Timing of Submittal.** Site plans shall be submitted at least thirty (30) days prior to the Planning Commission meeting at which the site plan will be considered. A Special Planning Commission meeting may be held at the request of the applicant. If granted, any applicable special meeting fees must be paid in advance by the applicant. If a Site Plan Review is being conducted for a Special Use Permit or subdivision plat, the application timetable specified for that process applies.

C. **Submittal to Zoning Administrator.** The Zoning Administrator will review the materials submitted to ensure all information required by the Ordinance has been provided. If the application is incomplete the Zoning Administrator will send a notice with a detailed list of all deficiencies to the applicant. If the site plan, including all required additional or related information, is determined to be complete, the Zoning Administrator shall cause the submittal to be placed on the agenda of the next regular Planning Commission meeting.

D. **Application Fees.** Application fees pursuant to currently adopted fee schedule shall be paid when the application and site plan are submitted.

E. **Coordinated Review.** Prior to Planning Commission consideration, the site plan and application shall be distributed to the appropriate Township and other local agencies for review and comment. The Zoning Administrator may also submit the proposed site plans to other applicable outside agencies and designated consultants for review. Coordinating agencies may include, but are not limited to, the County Drain Commission and Road Commission, DPW, Health Department, and emergency services providers.

F. **Planning Commission Consideration.** The Planning Commission shall review the site plan, together with any reports and recommendations from Township officials, staff, consultants, and other reviewing agencies and any public comments. The Planning Commission shall then make a determination based on the requirements of this Chapter. The Planning Commission is authorized to postpone, approve, approve subject to conditions or deny the site plan as follows:
   1. Postponement: Upon determination by the Planning Commission that a site plan is not sufficiently complete for approval or denial, or upon a request by the applicant, the Planning Commission may postpone consideration until a later meeting.

2. Approval: Upon determination that a site plan is in compliance with the standards and regulations set forth in this Chapter, an affirmative vote of the majority of the Planning Commissioners present is needed to approve a site plan.
3. Approval Subject to Conditions: The Planning Commission may approve a site plan, subject to any conditions necessary to address minor required modifications, ensure that public services and facilities can accommodate the proposed use, ensure compatibility with adjacent land uses or otherwise meet the intent and purpose of this Chapter. Such conditions may include the need to obtain variances or approvals from other agencies.

   These conditions, together with the regulatory authority and reasoning that justifies them, must be identified in the motion for site plan approval and communicated to the applicant in writing. The conditions shall become a part of the site plan, as inseparably as if they were part of the applicant's original submission. At this point in the site plan process, any approval is considered preliminary until all conditions are met.
4. Denial: Upon determination that a site plan does not comply with the standards of this Chapter or would require extensive revisions to comply with such standards, the site plan may be denied. The vote of a majority of Planning Commission members present at the meeting in which the site plan is reviewed is required to deny it. The motion to deny must state how the plan failed to meet the requirements of the zoning ordinance.

G. **Findings of Fact.** The decision of the Planning Commission shall be incorporated into a written statement of findings and conclusions relative to the site plan which specifies the basis for the decision and any condition(s) imposed.

H. **Official Record and Signed Copies.** The record relating to any approved site plan shall be maintained by the Zoning Administrator. This record shall include an official copy of the final site plan as it was approved by the Planning Commission, dated and signed by the permit holder, the Planning Commission Chairperson, and the Zoning Administrator. The record shall also include documentation of any conditions attached to the site plan approval and evidence of the satisfaction of these conditions. It shall also include documentation of any allowed deviations from the approved site plan, dated and signed by the permit holder and Zoning Administrator. One (1) signed and dated approved site plan shall be provided to the applicant.

I. **Modifications to an Approved Site Plan.** A minor change to a Site Plan may be approved administratively by the Zoning Administrator, provided the plan complies with all applicable requirements of this Ordinance and all other Township regulations and state law. The Zoning Administrator may approve modifications of a site plan for the following:
   1. Shape, lighting, or appearance of signs.
   2. Change of location or type of landscape materials.
   3. Internal rearrangement of parking lots.
   4. Additions to parking areas provided such addition is for not more than 10 parking spaces.
   5. Decrease in building size.

6. Moving a building no more than ten (10) feet or five (5) percent of the distance to the closest property line, whichever is smaller.
7. An increase in building size that does not exceed 5,000 square feet or ten (10) percent of the floor area, whichever is smaller.
8. Any approvals delegated by the Planning Commission.
9. Any other change or modification to an approved Site Plan requires resubmission to the Planning Commission for review and approval and the payment of an additional fee as established by the Township Board.

SECTION 8.07 CRITERIA FOR EVALUATING SITE PLANS

The Planning Commission shall use the following criteria in evaluating a site pan submittal:

A. **Ordinance Conformance.** Each site plan shall conform to the applicable provisions of this Ordinance (including all use and dimensional standards, parking requirements, setbacks, etc.)

B. **Arrangement of Structure**. Site plans shall demonstrate that buildings, parking areas, signs, walls, fences, and the like are designed to minimize adverse effects on adjacent properties and future users.

C. **Vehicular and Pedestrian Traffic.** Site plans shall fully conform to applicable driveway and traffic standards. Further, the site shall be designed to protect the safety and convenience of pedestrian and vehicular traffic.

D. **Public Safety.** Site plans shall fully conform to any applicable fire safety and emergency vehicle access requirements.

E. **Drainage.** Site plans shall provide proper storm drainage meeting all local standards.

F. **Hazardous Waste Management.** Site Plans shall demonstrate that reasonable precautions will be taken to prevent hazardous materials from entering the environment.

G. **Public Health.** Site plans shall fully conform to the requirements of the Michigan Department of Public Health, the Bay County Health Department, and other applicable agencies. All site plans shall be designed to protect current and future residents from obnoxious, objectionable, or hazardous off-site impacts, including, but not limited to, heat, glare, fumes, dust, noise, vibration, and odors.

H. **Statutory Compliance.** Site plans shall fully conform to all applicable state and federal statutes.

I. **Conformance with Township Master Plan.** Site plans shall fully conform to the land use policies, goals and objectives of the Master Plan.

SECTION 8.08 CONFORMITY TO SITE PLAN REQUIRED

A. When an applicant receives site plan approval, the site must be developed exactly as approved.

B. An approved Site Plan shall become null and void if a building permit for the proposed construction is not taken out within one (1) year from the date the site plan was approved. If a site plan becomes null and void a building permit cannot be issued until a new site plan has been approved.

C. Before a site plan is marked "approved", it shall be revised to reflect any conditions attached to the approval, or changes or corrections required to obtain approval.

D. All requirements of this Ordinance, and any other applicable Township ordinance, standard, specification, or regulation shall be complied with even if not specifically included in an approved site plan.

E. For any Site Plan approved, three (3) complete sets of "as-built" drawings, and one (1) electronic copy, certified by the project engineer or architect, must be submitted by the proprietor at the time of application for an occupancy permit.

SECTION 8.09 PHASED DEVELOPMENT

A. **Approval of Phased Developments.** The Planning Commission may grant approval for site plans with multiple phases, subject to the following:
   1. The site design and layout for all phases be shown on the site plan to ensure proper development of the overall site.
   2. Improvements associated with each phase shall be clearly identified on the site plan, along with a timetable for development. Development phases shall be designed so that each phase will function independent of any improvements planned for later phases.
   3. Each phase shall be subject to a separate plan review by the Planning Commission. Any revisions to the approved site plan shall be reviewed in accordance with this Chapter.

SECTION 8.10 RESUBMISSION AND REVISION

A. **Site Plan Resubmission.** A site plan that has been denied may be modified by the applicant to address the reasons for the denial and then resubmitted for further consideration. Upon determination that the applicant has addressed the reasons for the original denial, the Planning Commission shall review the amended site plan as if it were a new application, per Section 8.06.

B. **Revisions to Approved Site Plans.**
   1. The Zoning Administrator may administratively review and approve minor modifications to approved site plans that will not significantly alter or will conflict with the conditions of the site plan approval, materially alter the approved site design, increase the intensity of use or alter anticipated demand for public services. The Zoning Administrator shall provide a copy of any approved, minor modifications to the Planning Commission.
   2. Revisions to an approved site plan not considered by the Zoning Administrator to be minor shall be reviewed by the Planning Commission as an amended site plan. A revised plan will be reviewed the same as a new application.

SECTION 8.11 SITE PLAN EXPIRATION

Site plans shall expire 365 calendar days after the date of approval. Upon written request received by the Township prior to the expiration date, the Planning Commission may grant one extension of final approval for up to 365 calendar days, provided that site conditions have not changed in a way that would affect the character, design or use of the site, the approved site plan remains in conformance with all applicable provisions of this Chapter and any required fees have been paid.

SECTION 8.12 FINANCIAL GUARANTEE

The Planning Commission or Zoning Administrator is empowered to require a performance bond, letter of credit or certified check in an amount equal to the estimated cost of road, lighting, utility, sidewalk, landscaping and drainage improvements associated with the project. Such performance guarantee shall be deposited with the Clerk of the Township at the time of issuance of the permit authorizing the activity or project to ensure faithful completion of the improvements indicated with the approved site plan; if not, said performance guarantee shall be forfeited. The Township shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percentage of improvements completed, as attested to by the depositor and verified by the Zoning Administrator. In cases where the provisions of this Chapter have not been met, the amount of the aforementioned performance guarantee shall be used by the Township to complete the required improvements; and the balance, if any, shall be returned to the applicant.

SECTION 8.13 COMPLIANCE

A. **Responsibility of Owner.** It shall be the responsibility of the property owner, and the owner or operator of the use(s) for which site plan approval has been granted, to develop, improve and maintain the site, including the use, structures and all site elements in accordance with the approved site plan and all conditions of approval, until the property is razed, or a new site plan is approved.
   1. Failure to comply with the provisions of this Section shall be a violation of this Chapter, and shall be subject to the penalties as outlined within the Township of Portsmouth Municipal Civil Infraction Ordinance.
   2. The Zoning Administrator shall make periodic investigations of developments for which site plans have been approved. Noncompliance with the requirements and conditions of the approved site plan shall constitute grounds for the Planning Commission to rescind site plan approval.

CHAPTER NINE. PARKING, LOADING, & ACCESS

SECTION 9.01 INTENT

It is the intent and purpose of this Chapter to establish guidelines for adequate parking facilities in the Township, and the location and design of driveways that can be used for new construction in undeveloped areas and for redevelopment of existing developed areas. The primary objectives are to preserve the carrying capacity of roads within the Township, increase traffic safety, assist in the efficient movement of traffic throughout the Township and to ensure the provision of adequate access to adjoining properties. As part of the Site Plan Review process provided in Chapter Eight and in accordance with the following guidelines the Planning Commission is given discretion to regulate the location of driveways. Authority is also granted to waive or modify certain standards with respect to the regulation of individual parcels of land when strict adherence to the standards would be impossible, impractical or no clear benefit would be derived.

SECTION 9.02 GENERAL REQUIREMENTS

A. **Existing off-Street Parking.** Off-street parking facilities existing at the effective date of this Ordinance, which serves an existing building or use, shall not be reduced in size to less than that required under the terms of this Ordinance.

B. **Area For Parking Space.** For the purpose of this Chapter, three hundred (300) square feet of parking lot area shall be deemed a parking space for one (1) vehicle, including access aisles.

C. **Fractional Requirements.** When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to, and including one-half require one (1) parking space.

D. **Location of Parking Space for One and Two-Family Dwellings.** The off-street parking facilities required for one-and-two-family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve, and shall consist of a parking strip, parking apron, and/or garage.

E. **Location of Parking Space for Other Land Uses.** The off-street parking facilities required for all other uses shall be located on the lot or within three hundred (300) feet of the permitted uses requiring such off-street parking. Such distance is to be measured along lines of public access between the nearest point of the parking facility to the building to be served.

F. **Seating Capacity of Seats.** As used in this Chapter for parking requirements, seats shall mean that each twenty-four (24) inches of seating facilities shall be counted as one (1) seat.

G. **Collective Provisions.** Nothing in this Chapter shall be construed to prevent collective provisions of off-street parking facilities for two or more buildings or uses, provided such facilities collectively shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with Section 9.04.

H. **Parking on Private Property.** It shall be unlawful for any person, firm, or corporation to park any motor vehicle on any private off-street parking facility, or use said private facility for vehicle storage, or use any portion of any private property as parking space, without the expressed or implied consent, authorization, or ratification of the owner, holder, occupant, lessee, agent, or trustee of such property.

I. **Use of Off-Street Parking for Storage.** The storage of merchandise or products, motor vehicles displayed for sale, or the repair of vehicles is prohibited on any off-street parking lot, unless it is: permitted elsewhere in this Ordinance, the minimum parking requirement is met, and the request is explicitly approved by the Township.

J. **Prohibited Parking in Residential Districts.** Automotive vehicles or trailers of any kind which are not licensed for use upon the highways of the State of Michigan for a period in excess of sixty (60) days and any automotive vehicle, whether licensed or not, which is inoperative for a period in excess of thirty (30) days shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.

K. Commercial highway trailers and trucks with a rated capacity exceeding one (1) ton shall not be parked or stored on any residentially zoned property. This shall not be deemed to prevent the temporary location of any such vehicle in said districts while engaged in a delivery, pick-up, or service call to the premises where located.

SECTION 9.03 DESIGN STANDARDS

Wherever the off-street parking requirements in Section 9.04 require the construction of an off-street parking facility, such off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards and regulations:

A. The construction of any parking lot shall be in accordance with the requirements and provisions of this Ordinance, and such construction shall be completed and approved by the zoning administrator before actual use of the property as a parking lot commences. Plans for the development of any parking lot must be submitted to the Township consistent with the provisions outlined in Chapter 8, Section 8.02.

B. All such parking lots shall be hard surfaced with a pavement having an asphalt or concrete binder, and shall be graded and drained so as to dispose of surface water which might accumulate within

or upon such area. No surface water from such parking area shall be permitted to drain onto adjoining property, except through a public drain.

C. All parking lots shall be provided with adequate lighting, and all lighting shall be arranged and shielded so as to prevent light from spilling onto adjacent streets and residential districts or uses.

D. Off-street parking areas shall be enclosed with fences, walls, curbing or barriers as are necessary to ensure that motor vehicles may not enter or exit at points other than those expressly provided for such purpose and so that motor vehicles may not encroach on public rights-of-way or private property.

E. All non-residential parking and loading facilities shall have entrances and exits within the zoning district in which the principal use is located.

F. No part of any public or private non-residential parking lot containing more than four (4) parking spaces shall be closer than twenty (20) feet to any street right-of-way and a bufferstrip shall be provided in accordance with the requirements contained in Section 10.03.

G. When a required non-residential parking lot containing more than four (4) parking spaces is situated on a parcel adjoining a residential district or use, the parking facility shall be set back a minimum of thirty (30) feet from the adjoining parcel containing the residential district or use. A bufferstrip shall be provided and maintained within this setback area in accordance with the requirements of Section 10.03. A fence may be substituted for such bufferstrip, if approved in writing, by the adjacent residential property owner. A copy shall be filed with the Zoning Administrator prior to the erection of such fence.

H. If the use of a building or premises changes, the minimum parking requirements shall apply to the new use. If a building or premises is enlarged, the minimum parking requirements shall be applicable to the total area of the building or premises.

I. The off-street parking lot shall be provided with entrances and exits so located to minimize traffic congestion.

J. The minimum dimensions of parking spaces and maneuvering aisles shall be in accordance with the following requirements:

Table 9-1 Minimum Parking Lot Design Standards

	TWO-WAY AISLE WIDTH	ONE-WAY AISLE WIDTH	PARKING SPACE WIDTH	PARKING SPACE LENGTH
Parallel Parking	18 ft.	11 ft.	9.0 ft.	25 ft.
30-50 Degree Parking	20 ft.	12 ft.	9.5 ft.	20 ft.
54-74 Degree Parking	24 ft.	12 ft.	9.5 ft.	20 ft.
75-90 Degree Parking	24 ft.	15 ft.	9.5 ft.	20 ft.

SECTION 9.04 OFF-STREET PARKING REQUIREMENTS

The amount of required off-street parking space for new uses or buildings, additions thereto, and additions to existing buildings shall be determined in accordance with the following table. For uses not specifically mentioned therein, off-street parking requirements shall be determined by the Zoning Administrator from requirements for similar uses.

Table 9-2. Minimum Off-Street Parking Requirements

USE	MINIMUM NUMBER OF SPACES
RESIDENTIAL USES	
One-family and two-family	Two (2) for each dwelling unit
Multiple-family	Two (2) for each dwelling unit
Mobile home parks	Two (2) for each mobile home site
Boarding and rooming house	One (1) for each sleeping room
INSTITUTIONAL	
Churches or temples	One (1) for each six (6) seats or twelve (12) lineal feet of pew in the main unit of worship
Hospitals	One (1) for each one (1) bed
Homes for the aged and convalescent homes	One (1) for each two (2) beds
Elementary and junior high schools	One (1) for each one (1) teacher and administrator, in addition to the requirements of the auditorium
Senior high school	One (1) for each (1) teacher, administrator and one (1) for each ten (10) students, in addition to the requirements of the auditorium
Private Clubs or lodge halls	One (1) for each three (3) persons allowed within the maximum occupancy load as established by County or State fire or health codes

Private clubs, swimming pool clubs, tennis clubs, or other similar uses	One (1) for each two (2) member families or individuals
Golf courses open to the general public, except miniature or "par-3" courses	Six (6) for each one (1) golf hole and one (1) for each one (1) employee
Stadium, sports arena, or similar place of outdoor assembly	One (1) for each three (3) seats or six (6) lineal feet of benches
Theaters and auditoriums	One (1) for each four (4) seats plus one (1) for each two (2) employees
Day Care Centers	One (1) per employee plus one (1) for each ten (10) students
BUSINESS & COMMERCIAL	
Auto wash – self wash	Five (5) per premises plus waiting space to accommodate five (5) vehicles for each wash bay
Auto wash – automatic	Seven (7) per premises plus waiting space to accommodate twenty (20) vehicles awaiting entry into the automatic car wash
Beauty parlor or barber shop	Three (3) spaces for each of the first two (2) beauty or barber chairs, and one and one-half (1 ½) spaces for each additional chair
Bowling alleys	Five (5) for each one (1) bowling lane
Dance halls, pool or billiard parlors, roller or ice skating rinks, exhibition halls, and assembly halls without fixed seats	One (1) for each three (3) persons allowed as established by applicable fire, building or health codes
Establishments for sale and consumption on the premises of beverages, food or refreshments	One (1) for each sixty (60) square feet of usable floor space
Furniture and appliance, household equipment, repair shops, showroom of plumber, decorator, electrician or similar trade, shoe repair and other similar uses	One (1) for each eight hundred (800) square feet of usable floor area (For that floor area used in processing, one (1) additional space shall be provided for each two (2) persons employed therein)
Automobile service stations	Two (2) for each lubrication stall, rack or pit; one (1) for each gasoline pump
Laundromats and coin-operated dry cleaners	One (1) for each two (2) washing machines
Miniature or "par-3" golf courses	Three (3) for each one (1) hole plus one (1) for each one (1) employee
Mortuary establishments	One (1) for each fifty (50) square feet of usable floor space
Motel, hotel, or other commercial lodging establishments	One (1) for each one (1) occupancy unit plus one (1) for each one (1) employee, plus extra spaces for dining rooms, ballrooms, or meeting rooms

Motor vehicle sales and service establishments	One (1) for each two hundred (200) square feet of usable floor space of sales room and one (1) for each auto service stall in the service room
Video rental & arcade establishments	One and one-half (1 ½) for each one hundred (100) square feet of floor area
Retail stores except as otherwise specified herein	One (1) for each one hundred and fifty (150) square feet of usable floor space
OFFICES	
Banks	One (1) for each one hundred and fifty (150) square feet of usable floor space
Business offices or professional offices except as indicated in the following item	One (1) for each three hundred (300) square feet of usable floor space
Professional offices of doctors, dentists, or similar professions	One (1) for each one hundred (100) square feet of usable floor area in waiting rooms, and one (1) for each examining room, dental chair or similar use area
INDUSTRIAL USES	
Industrial or research establishments	Five (5) plus one (1) for every one and one-half (1½) employees in the largest working shift, or one (1) for every five hundred and fifty (550) square feet of usable floor space, whichever is greater
Wholesale establishments	Five (5) plus one (1) for every one (1) employee on the largest working shift, or one (1) for every seventeen hundred (1,700) square feet of usable floor space, whichever is greater
Mini-storage	Five (5) per premises plus one (1) for each five (5) storage bays

SECTION 9.05 LOADING REQUIREMENTS

A. In all districts, every building which is to be occupied for manufacturing, storage, retail sales, warehousing, or other uses similarly requiring the receipt or distribution or materials or merchandise shall provide and maintain on the same premises, paved off-street loading spaces as identified in Table 9-3.

Table 9-3 Minimum Loading Requirements

FLOOR AREA IN SQUARE FEET	REQUIRED NUMBER OF LOADING SPACES
Less than 5,000 square feet	None
5,000 – 20,000 square feet	One (1)
20,000 – 50,000 square feet	Two (2)
50,000 – 100,000 square feet	Three (3)
Over 100,000 square feet	Three (3) plus one (1) for each 100,000 square feet over 100,000 square feet

B. Each loading space shall be at least ten (10) feet in width and fifty (50) feet in length and fourteen (14) feet in height. No such space shall be located within any front yard area and shall not be located closer than fifty (50) feet to any lot within a residential district unless wholly within a completely enclosed building or enclosed on all sides by a building, wall or a uniformly painted solid fence not less than six (6) feet in height.

SECTION 9.06 DEFERRED PARKING (NON-RESIDENTIAL USES)

As a means of avoiding construction of greater amounts of parking spaces than are reasonably needed to serve a particular use while still ensuring site adequacy for a broad range of potential changes in the use of a building or premises, the Planning Commission may defer construction of the required number of spaces for any industrial, commercial, office or other non-residential use if the following conditions are satisfied:

A. An application is filed in writing with the Planning Commission. Said application shall be accompanied by a site plan of the entire project showing the design and layout of all required parking areas, including areas proposed for deferred parking. An application for deferred parking plan approval shall be accompanied by a fee as established by the Township Board.

B. The design of the parking area, as indicated on the site plan, includes sufficient space to provide for the total parking area as required by this Chapter in Section 9.04.

C. The area designated for deferred parking shall not include areas required for setbacks, side or rear yards, bufferstrips or land otherwise unsuitable for parking due to environmental or physical conditions.

D. The Planning Commission, in acting upon a Deferred Parking Plan, may modify the requirements of Section 9.04. The Planning Commission may also impose reasonably necessary conditions to protect the public interest and may require the provision of surety to assure completion of any related improvements required as a condition of Deferred Parking Plan Approval. At any time, subsequent to the approval and construction of a deferred parking plan, the Planning Commission may, based on a review of the current parking needs, require the construction of additional parking spaces as required in Section 9.04.

Section 9.07 AUTHORIZED REDUCTIONS

The Planning Commission is authorized to reduce the minimum number of parking spaces up to 25 percent upon finding that the applicant meets the requirements for one (1) or more of the allowable reductions of this section.

A. In reviewing a parking reduction, the Planning Commission shall consider the following factors, as applicable:
   1. land use and development character of the area to be served by the parking facility, including the relative intensity of uses requiring parking, proximity of nearby employment centers and residential uses, and other relevant factors;
   2. The availability of other publicly available parking in the area, including information such as number of spaces, any applicable restrictions (time limits, dedicated parking areas, etc.), or other uses also counting spaces in the same parking area for meeting parking requirements;
   3. The timing of parking use relative to other uses in the area including information regarding hours of operation or other operational parking needs that would permit use of the spaces;
   4. Whether the location of all provided parking meets the requirements of this chapter;
   5. Whether compliance with Table 9-2 is made to the maximum extent practicable taking into account parking lot design and efficiency of the layout;
   6. Whether other adjustments as described in this section should apply in conjunction with or in lieu of the requested need-based adjustment; and
   7. Whether supporting documentation, if provided, adequately demonstrates that sufficient parking is available to meet projected typical demand.
   8. The request for development of deferred parking spaces may originate from the owner of the property, the Zoning Administrator, or the Planning Commission upon a perceived demonstration of need.

SECTION 9.08 GENERAL INGRESS AND EGRESS PROVISIONS

A. Adequate sight distance shall be ensured for all vehicles exiting from a proposed development. If certain movements cannot be made safely then they shall be prohibited or joint access with adjoining property shall be encouraged.
B. Prior to the granting of a Zoning Permit or Site Plan approval for any construction involving a new or expanded driveway opening to a public street, a permit for such driveway from the state and/or county agency having jurisdiction over the public street shall be submitted.

SECTION 9.09 INGRESS AND EGRESS PROVISIONS IN BUSINESS & INDUSTRIAL DISTRICTS

A. In order to prevent left turn conflicts, driveways on one side of the street shall be aligned with those across the street in accordance with the minimum spacing standards as provided in this Section.

B. The minimum distance between any side lot line and the nearest edge of the driveway shall be ten (10) feet unless a joint driveway is provided to serve both properties.

C. Where corner lots or parcels of land have frontage on a major road and a less traveled side street the access to the parcel should be provided from the side street.

D. The minimum distance between the center line of a proposed driveway and the nearest right-of-way line of an intersecting street shall normally be one hundred and twenty-five (125) feet. Two hundred and fifty (250) feet is required from any existing signalized intersection or location designated for a future traffic signal. Seventy-five (75) feet is required for driveways designed and signed for right turn ingress and egress only, excluding tapers or parallel lanes.

E. Minimum and desirable distances between driveways is primarily based on posted speed limits along the parcel frontage, as follows:

Table 9-4 Driveway Spacing Requirements

POSTED SPEED (MPH)	MINIMUM SPACING (FT.)	DESIRABLE SPACING (FT.)
30	125	260
35	150	350
40	185	440
45	230	570
50	275	700
55	350	875

The “Desirable” values are based on the sight distance necessary to allow an egressing vehicle to enter the traffic stream without causing oncoming traffic to decrease its speed by more than ten (10) miles per hour, and should be required, to the extent feasible, where parcel size permits. The “Minimum” values are based on the distances required to avoid conflicts between vehicles turning right or left from adjacent driveways. In order to maintain minimum distances, sharing or joint use of a driveway by two or more property owners may be necessary. This will require a written easement or reciprocal easements from all affected property owners during the Site Plan approval process.

CHAPTER TEN. LANDSCAPE PROVISIONS

SECTION 10.01 INTENT

The intent of this Chapter is to assist development proposals in meeting desired landscaping objectives and to set forth minimum yet flexible standards for required landscaped areas. The objective and primary functions of landscaping are both utilitarian and aesthetic. The utilitarian aspects and effects of good landscaping design include:

A. The screening of lighted areas and unattractive features.

B. The prevention of glare from buildings, cars and other sources.

C. The control of air pollution by the absorption of noxious gases and the release of oxygen.

D. The reduction of noise and the stabilization of soils.

E. Decreased wind velocity and increased surface water retention.

F. The definition of access and circulation.

SECTION 10.02 LANDSCAPING – GENERAL

For all uses except single-family residential and agricultural, every site upon which a building or structure has been placed shall be landscaped in accordance with a plan and specifications approved by the Planning Commission. The entire site not devoted to floor area, parking, accessways or pedestrian use shall be appropriately landscaped with grass, canopy and coniferous trees, shrubs, and ground cover. Expansion areas which become disturbed for any reason shall be restored in accordance with the original landscape plan unless approved otherwise in writing by the Zoning Administrator.

A. Landscaping shall be installed within one hundred eighty (180) days of completion of the building or structure.

B. All landscaping shall be hardy plant materials and maintained thereafter in a neat and orderly manner. Withered and/or dead plant materials shall be replaced within a reasonable period of time, not to exceed one (1) growing season.

C. Landscaped areas shall be neatly maintained, including mowing, fertilizing, pruning, and watering, if necessary.

D. Parking and loading areas shall be landscaped and/or fenced in such a manner as to reasonably interrupt or screen the areas from view.

E. For the purpose of this Chapter, a corner lot is considered as having two (2) front yards, and the appropriate landscaping shall be provided for both.

F. The extensive use of cobblestones, crushed stones or other non-living material as a ground cover is discouraged.

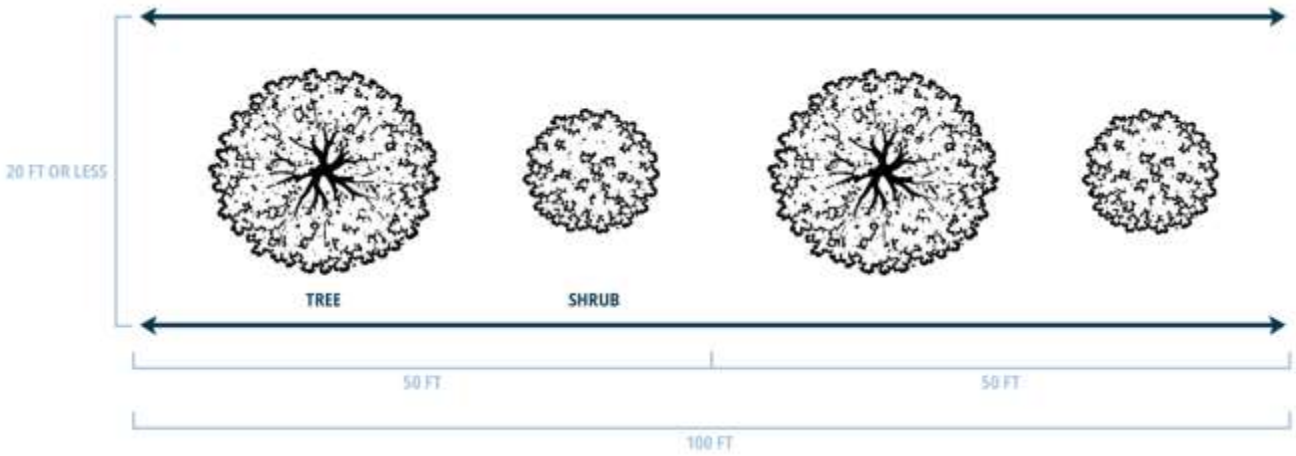
G. Where appropriate, plantings should be grouped or clustered to provide the maximum visual effect.

SECTION 10.03 BUFFERSTRIPS REQUIRED

In all Business, Industrial, and PUD Districts that abut a Residential District, a bufferstrip shall be required along the entire length of the shared property line. When a permitted non-residential use within a Residential District abuts a residential use, a bufferstrip shall also be required along the shared property line. The width of the required buffer strip shall be proportional to the intensity of the proposed use, taking into consideration adjacent properties. The Planning Commission shall have discretion in determining the required width of the bufferstrip. All required bufferstrips shall be installed in accordance with the following guidelines:

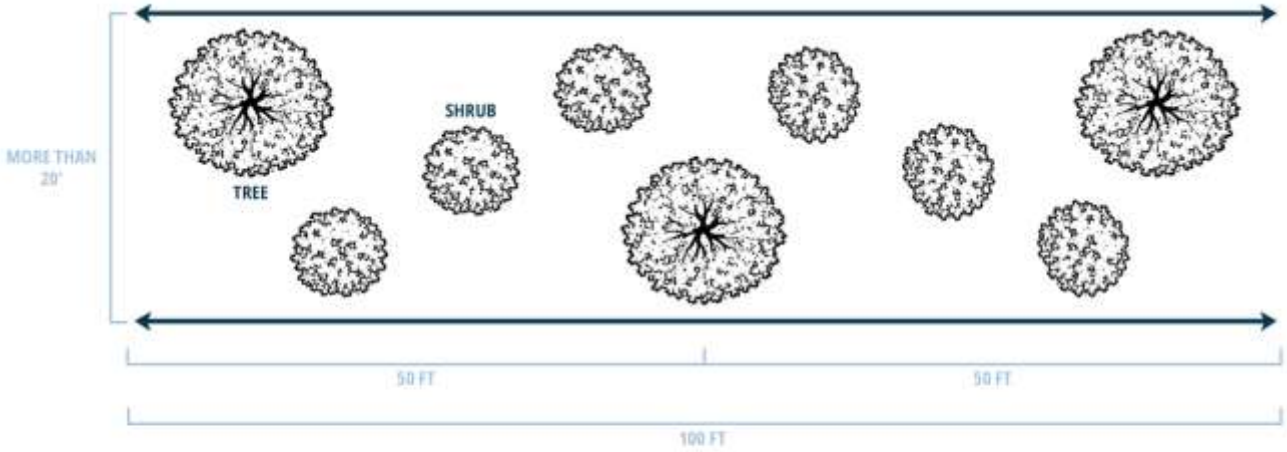
A. For each required bufferstrip with a width of twenty (20) feet or less:
   1. One (1) tree for each fifty (50) feet of length of the bufferstrip.
   2. Shrubs at a rate of one (1) per each tree required.

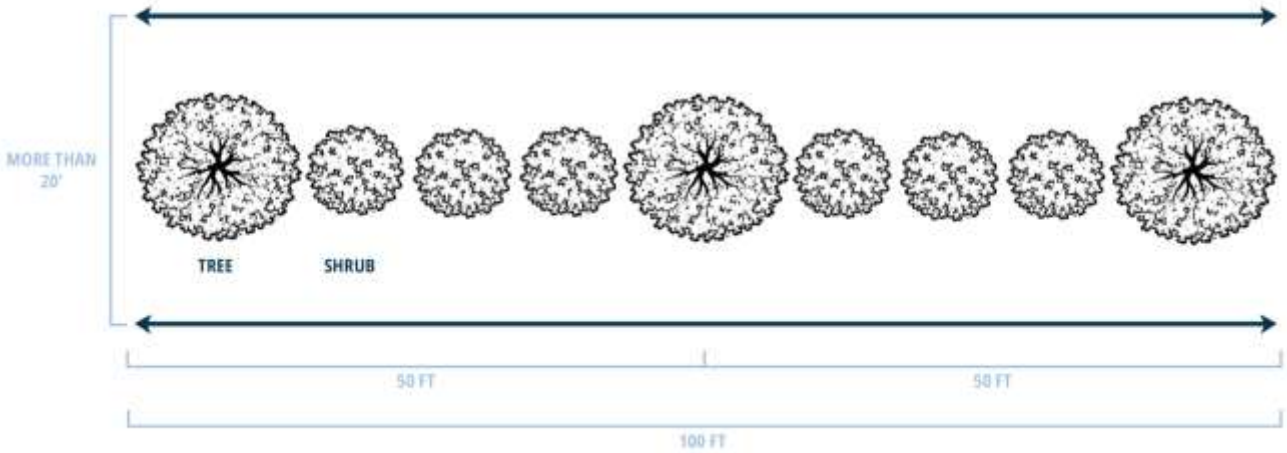
Sample Bufferstrip – 20 Feet or Less in Width



B. For each required bufferstrip with a width of greater than twenty (20) feet:
   1. A minimum of two (2) trees plus one (1) additional tree for each fifty (50) feet in length of the bufferstrip.
   2. Shrubs at a rate of two (2) per each tree required.[FV1][MD2]

Sample Bufferstrip – 20 Feet or More in Width



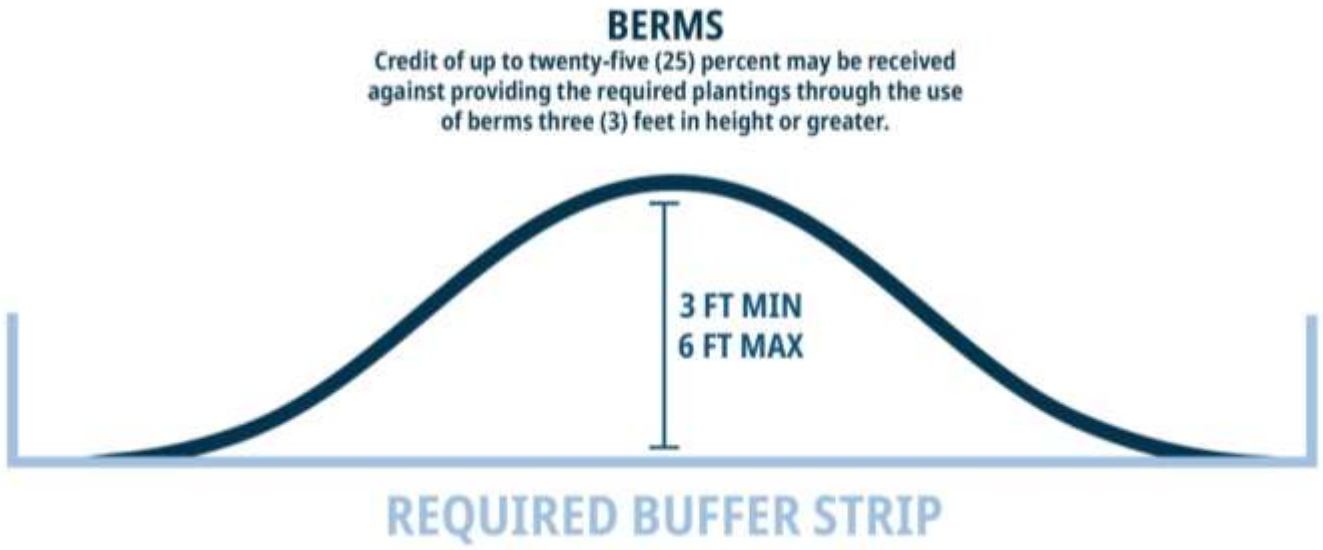


C. **Tree Size.** All trees credited in any required bufferstrip shall have a minimum caliper of one and one-half (1 ½) inches and shall have an expected height at maturity of at least twenty (20) feet. Trees shall be provided at a ratio of approximately two (2) understory trees for each one (1) canopy tree.

D. **Accessways.** Necessary accessways through required bufferstrips are permitted but shall be included in the dimensions used to determine required plantings.

E. **Berms.** Undulating earthen berms not exceeding six (6) feet in height and 3:1 slopes may be permitted within a required bufferstrip. A credit of up to twenty-five (25) percent may be received against providing the required plantings through the use of berms three (3) feet in height or greater.

Sample Berm



SECTION 10.04 MODIFICATIONS

A. For reasons of conflicting uses, unfavorable topography, or other unique or extenuating physical circumstances, the Planning Commission may increase required landscape plantings by up to twenty-five (25) percent in any required bufferstrip if, in its discretion, an increase is found to be necessary to reasonably achieve stated utilitarian and aesthetic objectives.

B. Where, in certain situations, a physical hardship exists or existing topography and vegetation are determined by the Planning Commission to provide equal or better landscape and buffering effect, the Planning Commission may approve modifications to the planting requirements of Section 10.03. In approving modifications due to physical hardship, the Planning Commission may require such alternate plantings and visual screens or hedges, fences, walls, and/or combination thereof which it deems necessary to ensure compliance with stated utilitarian and aesthetic objectives.

C. In situations where landscaping requirements are being considered for property where the adjacent property is vacant, the Planning Commission may also defer landscaping until such time adjacent property is petitioned for development. In such a situation, the applicant shall demonstrate the ability to meet the landscaping requirements outlined herein.

SECTION 10.05 GREENSPACE WITHIN THE PUBLIC RIGHT-OF-WAY AND PRIVATE EASEMENTS

For the land area lying between the required bufferstrip in the front yard of properties and the edge of pavement of a public or private street, the following standards shall apply:

A. As a minimum, grass or other living ground cover shall be neatly maintained and kept weed free by the owners of property abutting the public right-of-way or private easement.

B. Trees within a public right-of-way shall not be planted without the written consent of the Bay County Road Commission or the Michigan Department of Transportation.

C. All non-residential uses shall maintain a minimum of 20 feet of greenspace and shall be maintained abutting the road right-of-way.

SECTION 10.06 PARKING AREAS, FRONT YARD – REQUIRED LANDSCAPING

Parking areas located in the front yard of a site that include more than 50 vehicle spaces or 15,000 square feet of area, including parking spaces, lanes and drives outside of the required bufferstrips, shall be internally landscaped at a rate of one (1) square foot of green area for each twenty-five (25) square feet of impermeable parking area surface. Landscape features installed in fulfillment of this requirement should be designed and situated to break the monotony of large expanses of parking area, to protect lighting fixtures and fire hydrants, and to define access and circulation ways. Such features shall be sized and planted to meet the following requirements and shall be credited as parking spaces for the purpose of meeting the minimum vehicle space requirements of this Ordinance.

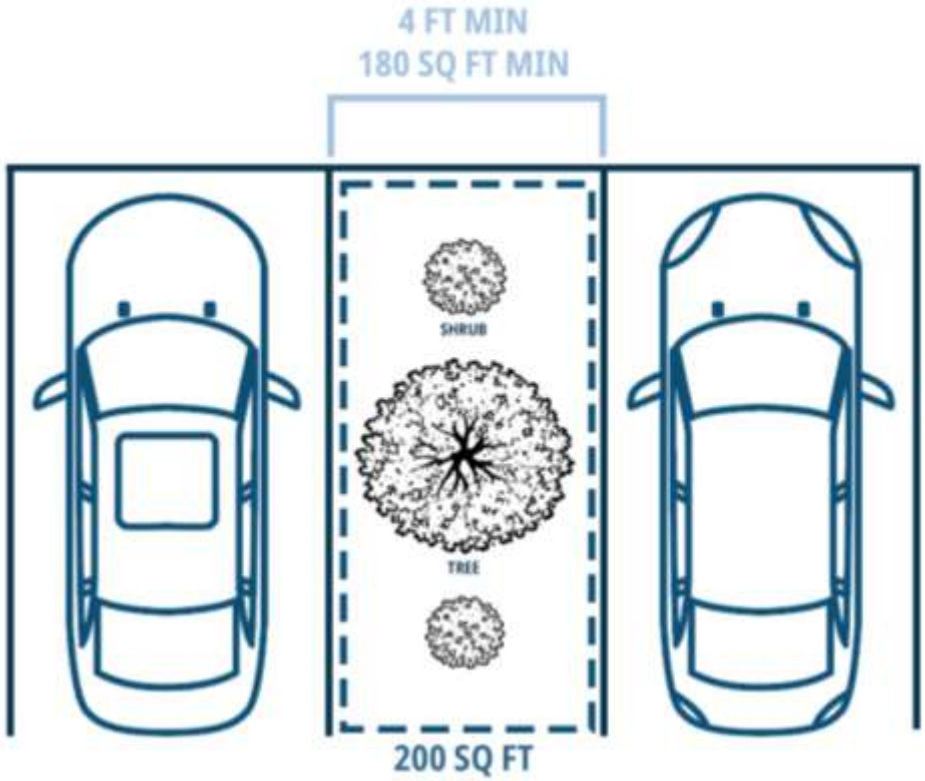
A. **Landscape Islands and Peninsulas.** Such features shall be a minimum of one hundred eighty (180) square feet in size.

B. **Raised Planting Strips.** Such features used to separate the ranks of vehicle spaces shall be a minimum of four (4) feet in width.

C. **Required Plantings.** For each two hundred (200) square feet of green area required within a created island, peninsula, or raised planting strip, one (1) tree and two (2) shrubs for each tree shall be provided.

D. Trees shall have an expected height of at least fifteen (15) feet at maturity and be of a minimum one and one-half (1 ½) inches caliper when planted. Shrubs shall be of a low growing variety and maintained below four (4) feet in height as measured from the parking surface around the base of the island. Trees shall be maintained to ensure clear vision for pedestrians and drivers.

Sample Landscape Island



SECTION 10.07 NATIVE SPECIES

At least seventy-five (75) percent of required trees shall be native to Michigan. At least thirty (30) percent of all other required landscape materials shall be native to Michigan. For information on native plants and lists of trees and shrubs, see the following resources:

A. www.nativeplants.msu.edu

B. www.wildflower.org/collections/Michigan

SECTION 10.8 UNCREDITED SPECIES

The following Schedule "A" enumerates species that are permitted but which will not be credited in required landscape areas due to their brittleness, susceptibility to disease and insects, excessive root structure, excessive litter, susceptibility to road salt damage and/or other undesirable characteristics.

SCHEDULE A - LIST OF UNDESIRABLE SPECIES

TREES	
Botanical Name	**Common Name**
Acer Negundo	Box Elder
Ailantus Altissima	Tree of Heaven
Betula Spp.	Birch
Catalpa Speciosa	Catalpa
Eleagnus Augustifolia	Russian Olive
Ginkgo Biloba (Female)	Female Ginkgo
Macllura Pomifera	Osage Orange
Morus Spp.	Mulberry
Populus Spp.	Cottonwood, Poplar, Aspen
Prunus Spp.	Cherry, Plum
Salix Spp.	Willow
Ulmus Spp.	Elm
Pinus Strobus	White Pine
Juglans Nigra	Black Walnut
Robina Spp.	Black Locus
Crataegus Spp.	Hawthorn
Aesculus Hippocastanum	Horsechestnut
Carya Spp.	Hickory
Acer Saccharium	Silver Maple

Note: Any multiple stem trees

SHRUBBERY	
Botanical Name	**Common Name**
Rhododendron	Rhododendron
Yucca	Yucca
Ilex	Holly
Mahonia	Grape Holly
Azalea	Azalea
Arborvitae	Globe Arborvitae

CHAPTER ELEVEN. SIGNS

SECTION 11.01 PURPOSE

The intent of this Chapter is to regulate the type, number, physical dimensions, erection, placement and maintenance of signs in Portsmouth Charter Township. The purpose of the limitations, regulations, and standards established herein is to:

A. Promote the public peace, health, and safety of residents and visitors

B. Protect the natural beauty and distinctive character of Portsmouth Charter Township

C. Protect commercial districts from visual chaos and clutter

D. Provide an environment which fosters growth and development of business

E. Protect property values

F. Eliminate distractions which are hazardous to motorists and pedestrians

G. Protect the public's ability to identify establishments and premises

H. Protect the public's interest in public buildings, public streets, roads and highways and open spaces

I. Balance the individual rights of property owners to communicate their message with the public's right to be free of unreasonable distractions and aesthetic intrusions.

SECTION 11.02 SCOPE

Except as otherwise expressly provided herein, this Chapter shall not regulate building design. Nor shall this Chapter regulate official traffic or government signs; the content of signs; signs not intended to be visible from public roads; scoreboards at athletic fields; gravestones; religious symbols; commemorative plaques; the display of street numbers or names; or any display structure or construction not defined herein as a sign.

SECTION 11.03 GENERAL PROVISIONS

It shall be unlawful for any person to erect, place, or maintain a sign in Portsmouth Charter Township except in accordance with the provisions of this Chapter.

A. **Signs Prohibited.** The following types of signs are prohibited in all zoning districts:
   1. Abandoned signs
   2. Air-filled or gas-filled balloon signs
   3. Animated signs
   4. Banner signs, except as expressly permitted by this Chapter
   5. Signs imitating or resembling official or government signs or signals
   6. Snipe signs
   7. Vehicle signs not used during the normal course of business which are parked or located for the primary purpose of displaying the advertising copy
   8. Roof signs
   9. Sexually graphic signs
   10. Any sign which make use of words such as "STOP", "LOOK", "DANGER" or any other words, phrases, symbols or characters in such a manner as to interfere with, mislead or confuse traffic.
   11. Any sign or sign structure which is structurally unsafe or constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment, or is not kept in good repair, or is capable of causing electrical shocks to persons likely to come in contact with it.
   12. Any sign projecting into a public right-of-way or dedicated easement except those erected by an exempt public agency or those with a sign permit from the controlling jurisdiction.

B. **Permits Required.** Unless otherwise provided by this Chapter, all signs shall require permits and payment of fees as described in Section 11.09 of this Ordinance. No sign shall be installed or used until and unless a permit has been issued by the Township. No permit is required for the maintenance of a sign or for a change of copy on painted, printed, or changeable copy signs.

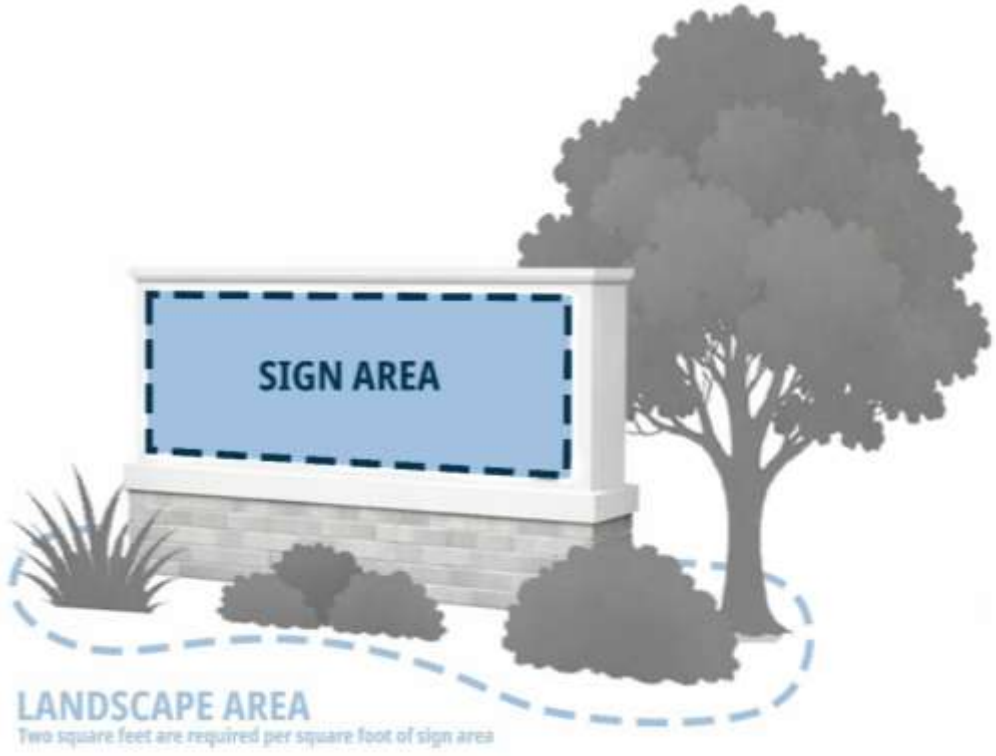
C. **Signs Not Requiring Permits.** The following types of signs are exempted from permit requirements and allowed in all zoning districts. These signs shall not count toward the maximum allowed signage on any given lot:
   1. Up to four (4) temporary signs per lot, the total area of which shall not exceed 15 square feet.
   2. Any sign erected by a public agency.
   3. Any sign required to be placed by law, including but not limited to address signs.
   4. Traffic control signs which conform to the Michigan Manual of Uniform Traffic Control Devices.
   5. Signs designating historic sites recognized by the State Historical Commission or the National Register of Historic Places.

D. **Maintenance.** All signs shall be properly maintained. Exposed surfaces shall be clean and painted, if paint is required. Defective or damaged parts shall be replaced. The Zoning Administrator shall

have the right under Section 11.09(I) to order the repair or removal of any sign which is unsafe, as defined by the ICC Building Code or its successor code.

E. **Design Criteria for all Zoning Districts.**
   1. Setbacks
      a. No sign shall be placed in a location where it causes a hazard to vehicle or pedestrian traffic by depriving the driver or pedestrian of a clear and unobstructed view of approaching, intersecting or merging traffic.
      b. All signs shall be setback a minimum of five (5) feet from any road right-of-way except those erected by an exempt public agency or those with a sign permit from the controlling jurisdiction.
      c. A sign shall not project into the public right-of-way of any adjacent street.
   2. Wall signs
      a. A wall sign shall not project beyond the ends of the wall to which it is attached.
      b. A wall sign shall not extend beyond the building roof line.

F. **Landscaping.** The base treatment for freestanding shall have a landscaped area with low maintenance plants. Such landscaping may be placed in stone, masonry or treated wood bases or containers to achieve a pleasant aesthetic arrangement. The landscaped areas must contain a minimum of two (2) square feet for each square foot of the sign area The landscape design must be approved by the Zoning Administrator or Planning Commission. Adjustments to this requirement may be allowed by the Zoning Administrator or Planning Commission.



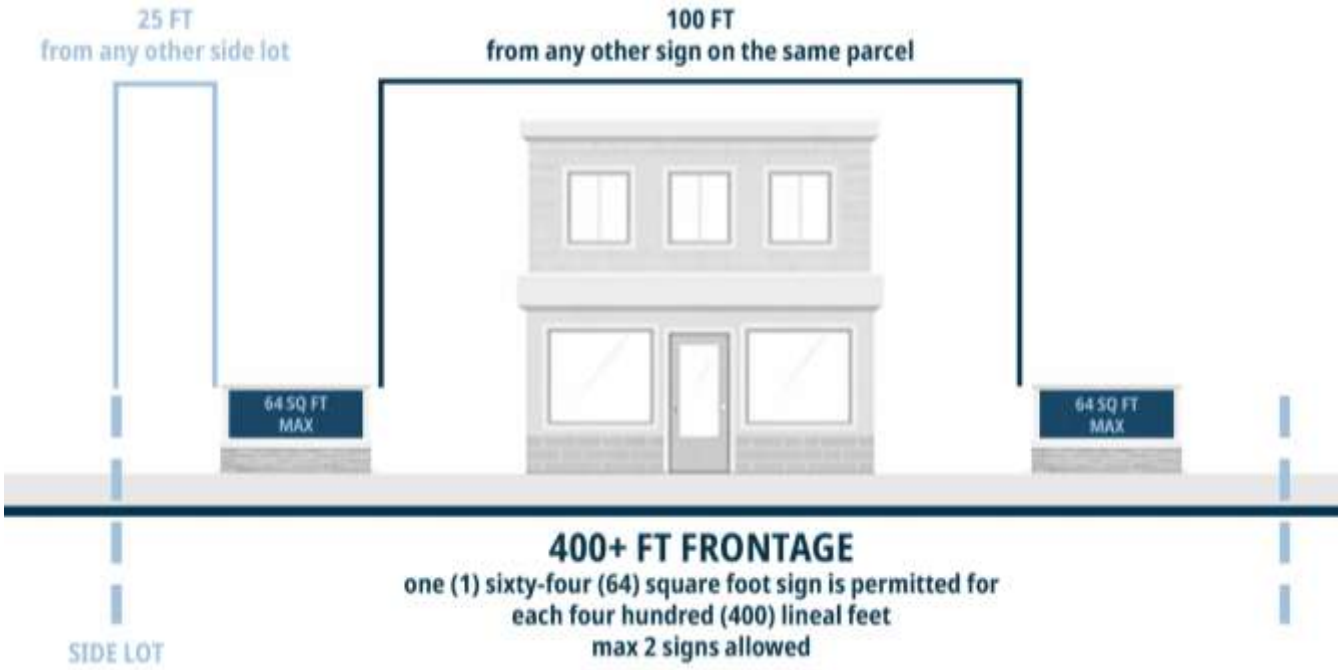
SECTION 11.04 REGULATIONS OF SIGNS BY ZONING DISTRICT

A. **Signs Permitted in All Zoning Districts.** The following signs are allowed in all zones:
   1. All signs not requiring permits (Section 11.03(C)).
   2. One (1) under-canopy sign per premises, provided such sign does not exceed eight (8) square feet.

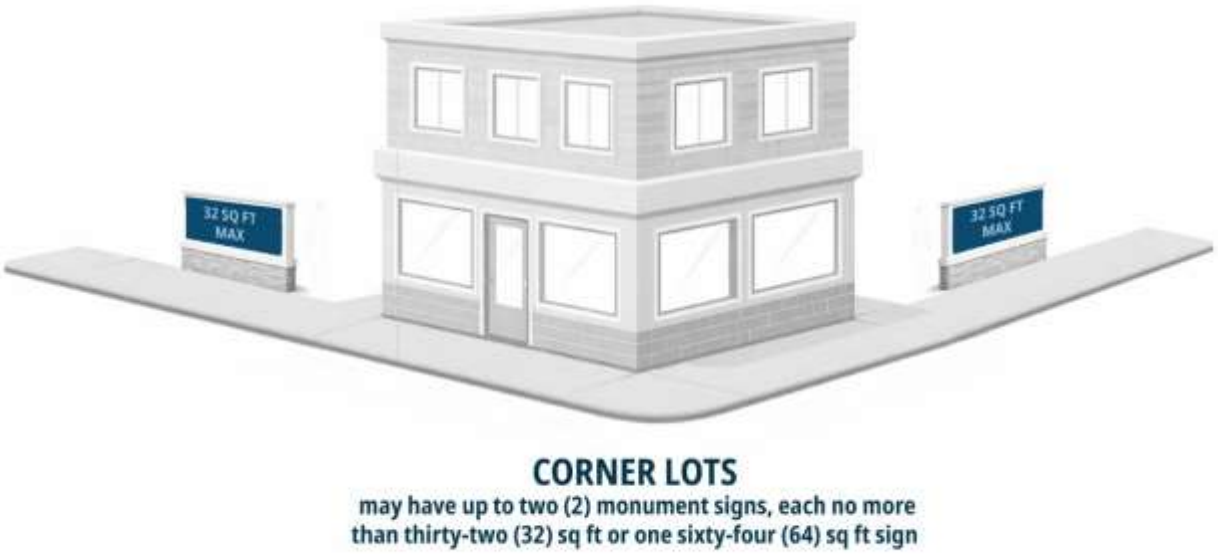
B. **Signs permitted in the A-E, SFR, RF, and MHP Zoning Districts.** The following signs are allowed in the A-E, SFR, RF, and MHP zoning districts:
   1. All signs permitted in Section 11.04(A) of this Chapter.
   2. One (1) freestanding sign per entrance road to be placed at an area at the entrance of a legally approved subdivision development not to exceed 32 square feet in sign area. The placement of such sign shall be approved by the Zoning Administrator.
   3. One (1) freestanding sign not to exceed 64 square feet in sign area and six (6) feet in height, or one (1) wall sign not to exceed 80 square feet in sign area.

C. **Signs permitted in the LB, GB, LI, GI, and PUD Zoning Districts. The** following signs are allowed in the LB, GB, LI, GI, and PUD zoning districts:
   1. All signs as permitted in Section 11.04(A) of this Chapter.
   2. One (1) monument sign.
      a. Sign shall not exceed a height of 10 feet.

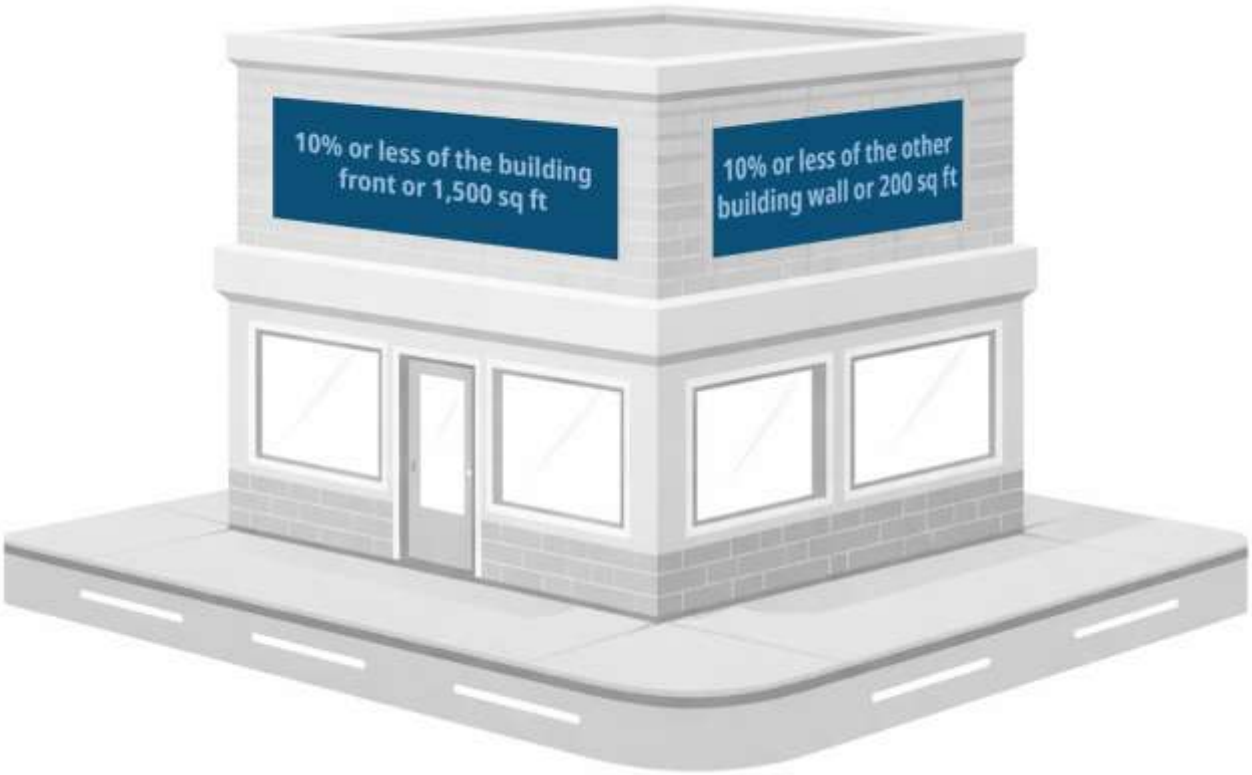
      b. Total sign area shall be a maximum of 64 square feet. Up to 32 square feet of such may be an electronic message board.
      c. For parcels with greater than four hundred (400) lineal feet of frontage, one (1) sixty-four (64) square foot sign is permitted for each four hundred (400) lineal feet and fraction thereof, limited to a maximum of two (2) signs. Each sign must be located at least one hundred (100) feet from any other sign on the same parcel, and twenty-five (25) feet from any side lot line and must not block an existing property owner's previously erected sign.



d. Corner lots may have up to two (2) monument signs, each no more than thirty-two (32) square feet. If only one sign is used on a corner lot, the sign area may be sixty-four (64) square feet.
e. Corner lots with greater than 400 lineal feet of frontage on each street can have a maximum of two (2) monument signs, each 64 square feet in area. Each sign must be located at least 100 feet from any other sign on the same parcel, and twenty-five (25) feet from any side lot line and must not block an existing property owner's previously erected sign.



3. Wall Signs, provided the following conditions are met:
   a. The maximum area of wall signs located on the front building façade shall not exceed ten percent (10%) of the building façade area or one thousand five hundred (1,500) square feet, whichever is less.
   b. The maximum area of the wall signs located upon the remaining building façades shall not exceed ten percent (10%) of the building façade area or two hundred (200) square feet, whichever is less.
   c. In the event the building has multiple commercial establishments, each commercial establishment's space will be permitted a sign area of ten percent (10%) for each of its building façades, i.e. front, rear and sides. In no case shall the signs on the front of each façade exceed one thousand five hundred (1,500) square feet. In no case shall the sign area exceed two hundred (200) square feet for the side and rear façades.



SECTION 11.05 NONCONFORMING SIGNS

A. **Determination of Legal Nonconformity.** Existing signs which do not conform to the specific provisions of these sign regulations may be eligible for the designation "legal nonconforming" provided that:
   1. The Zoning Administrator determines that such signs are properly maintained and do not in any way endanger the public.
   2. The sign was authorized by a valid permit or variance or complied with all applicable laws on the date of adoption of this Ordinance.
   3. The sign advertises a currently operating business or use.

B. **Loss of Legal Nonconforming Status.** If a sign loses its legal nonconforming designation or status, the sign (and all portions thereof) shall be removed immediately and shall not be repaired, replaced or rebuilt unless it fully complies with all requirements of this Chapter and the Portsmouth Township Zoning Ordinance, as amended. A legal nonconforming sign shall lose its lawful nonconforming designation and status if the Zoning Administrator determines that any of the following are applicable:
   1. The sign is relocated, moved, rebuilt or replaced.
   2. The sign is destroyed. A sign shall be deemed destroyed if any of the following occurs:
      a. The sign is torn or demolished;
      b. The sign is wrecked or ruined;
      c. Such damage has been done to the sign that it cannot be returned to its prior state by routine repair, but only by replacement or material rebuilding; or
      d. More than fifty percent (50%) of the face of the sign has been shattered, or a portion of the sign face touches the ground.
   3. If a sign is destroyed, Section 11.05(C) hereof (which applies only to repairs and maintenance) shall not be applicable.
   4. Even if a sign has not been destroyed, but damage or deterioration has occurred to the point of fifty percent (50%) or more as defined in Section 11.05(C), the sign shall be deemed to have lost its legal nonconforming status.
      a. The structure or size of the sign is altered in any material way other than a change of copy or normal maintenance which does not physically alter the sign.
      b. There is a material change in the use of the premises where the sign is located.
      c. A building permit is issued for any construction on the premises where the sign is located which increases the total building square footage by more than five percent (5%) or (5,000) square feet, whichever is less.

C. **Maintenance and Repair of Legal Non-Conforming Signs.** This section shall not apply if a legal non-conforming sign has been destroyed, since a destroyed sign automatically loses its legal non-conforming designation and status. If a legal non-conforming sign suffers fifty percent (50%) or more damage or deterioration, it must be brought into full compliance with the sign regulation or be removed. In order to determine whether or not a sign has been damaged or has deteriorated by fifty percent (50%) or more, the costs of physically repairing the sign shall be compared to the costs of physically replacing the sign. If less than fifty percent (50%) damage or deterioration has occurred pursuant to such comparison, the sign may be repaired to its exact original state.

SECTION 11.06 CONSTRUCTION SPECIFICATIONS

A. **Compliance with Building and Electrical Codes.** All signs shall be constructed in accordance with the requirements of the ICC Building Code and the National Electrical Code, as amended from time to time.

B. **Anchoring.**
   1. No sign shall be suspended by non-rigid attachments that will allow the sign to swing in the wind.
   2. All freestanding signs shall have self-supporting structures erected on or permanently attached to concrete foundations.

C. **Wind Loads.** All signs, other than wall signs, shall be designed to withstand the wind load pressure specified for its size and type in the ICC Building Code.

D. **Additional Construction Specifications.**
   1. No signs shall be erected, constructed or maintained so as to obstruct any fire escape, required exit, window or door opening used as a means of egress.
   2. No sign shall be attached in any form, shape, or manner which will interfere with any opening required for ventilation, except that signs may be erected in front of and may cover transom windows when not in violation of the provisions of the ICC Building or Fire Prevention Codes.
   3. Signs shall be located in such a way as to maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with National Electrical Code specifications, depending on voltages concerned. However, in no case shall a sign be installed closer than five (5) feet horizontally or vertically from any conductor or public utility guy wire, unless specifically waived by the Township Electrical Inspector.

SECTION 11.07 ADMINISTRATION AND ENFORCEMENT

A. **Sign Administrator.** The Zoning Administrator shall be designated by the Township Board as the Sign Administrator and is authorized to process applications for permits and variances, hold public hearings as required, and enforce and carry out all provisions of these sign regulations, both in letter and in spirit. The Zoning Administrator is empowered, upon presentation of proper

credentials, to enter or inspect any building, structure, or premises in the Township for the purpose of inspection of a sign and its structural and electrical connections to ensure compliance with all applicable codes and ordinances. Such inspections should be carried out during business hours unless an emergency exists.

B. **Application for Permits.** Application for a permit for the erection, alteration, or relocation of a sign shall be made to the Zoning Administrator upon a form provided by the Zoning Administrator and shall include the following information:
   1. Name and address of the owner of the sign.
   2. Street address or location of the property on which the sign is to be located, along with the name and address of the property owner.
   3. The type of sign as defined in this Chapter.
   4. A site plan showing the proposed location of the sign along with the locations and square footage areas of all existing signs on the same premises.
   5. Specifications and scale drawings showing the materials, design, dimensions, structural supports, and electrical components of the proposed sign.

C. **Permit Fees.** An application for a permit filed with the Zoning Administrator shall be accompanied by the payment of a fee, which shall be in accordance with the fee schedule adopted from time to time by resolution of the Township Board.

D. **Issuance and Denial.** The Zoning Administrator shall issue a permit for the erection, alteration, or relocation of a sign within thirty (30) days of receipt of a valid and complete application and permit fee, provided that the sign complies with all applicable laws and regulations of the Township. In all applications, where a matter of interpretation arises, the more specific definition or higher standard shall prevail. When a permit is denied by the Zoning Administrator, he/she shall give a written notice within seven (7) days to the applicant along with a brief statement of the reasons for denial. The Zoning Administrator may suspend or revoke an issued permit for a false statement or misrepresentation of fact in the application.

E. **Permit Conditions, Refunds, and Penalties.**
   1. If no inspections have been made and no work authorized by the permit has been performed, one half (1/2) of the permit fee may be refunded to the applicant upon request upon return of the permit to the Zoning Administrator within thirty (30) days of issuance.
   2. A permit issued by the Zoning Administrator becomes null and void if work is not commenced within 120 days of issuance. If work authorized by the permit is suspended or abandoned for 120 days, the permit must be renewed with an additional payment of one-half (1/2) of the original fee.
   3. If any sign is installed or placed on any property prior to receiving a permit, the specified permit fee shall be doubled. However, payment of the doubled fee shall not relieve any person of any other requirements or penalties prescribed in this Chapter.

F. **Inspection Upon Completion.** Any person, altering, or relocating a sign for which a permit has been issued shall notify the Zoning Administrator upon completion of the work. The Zoning Administrator may require a final inspection, including an electrical inspection and inspection of footings on freestanding signs. The Zoning Administrator may require in writing upon issuance of a permit that he/she be notified for inspection prior to the installation of certain signs.

G. **Variances.** In obtaining a permit, the applicant may apply to the Zoning Administrator for a variance from certain requirements of this Chapter. A variance may be granted by the Zoning Board of Appeals where the literal application of these sign provisions would create a practical difficulty or unnecessary hardship for the sign user and the criteria of Section 14.07 of the Portsmouth Township Zoning Ordinance are met. In granting a variance, the Zoning Board of Appeals may attach additional requirements necessary to carry out the spirit and purpose of these sign regulations in the public interest.

H. **Re-submission of Application for a Variance Request.** No application for a sign variance shall be submitted to the Township where such application has been previously denied or turned down by the Township unless the Township determines that either one (1) year has passed since the prior application was denied or the new application or project is substantially changed from the prior one. With regard to whether or not substantial changes have occurred since the prior application was denied, the Zoning Administrator shall make the determination in the first instance. If the applicant disagrees with the Zoning Administrator's determination, the applicant shall have thirty (30) days to appeal the Zoning Administrator's determination to the Zoning Board of Appeals. In determining whether substantial changes have occurred, the Zoning Administrator (or on appeal, the Zoning Board of Appeals) shall consider:
   1. Whether the application has been substantially modified from the earlier one;
   2. Whether external conditions or circumstances have changed significantly so as to warrant a reconsideration of the application; or
   3. Whether new and material evidence has been discovered which would justify a reconsideration of the application or project and the failure to present such evidence at the first consideration was not the fault of the applicant.

I. **Removal of Signs by the Zoning Administrator.**
   1. If, upon inspection, the Zoning Administrator or Building Inspector finds that a sign is abandoned or structurally, materially or electrically defective, violates these sign regulations or in any way endangers the public, the Zoning Administrator or Building Inspector shall issue a written request to the sign owner and occupant of the premises stating the nature of the violation and requiring them to repair or remove the sign within thirty (30) days of the date of the request. The request shall specify those sections of the Ordinance in violation and shall state that the alleged violation must be corrected or the decision must be appealed to the Zoning Board of Appeals
   2. The Zoning Administrator may cause the removal of an illegal sign in cases of emergency, or for failure to comply with a written request for removal or repair. In cases of emergency, the

Zoning Administrator may cause the immediate removal of a dangerous or defective sign without notice. Signs removed in this manner must present a hazard to the public safety as provided in the ICC Building Code.

3. After removal or demolition of the sign, a notice shall be mailed to the sign owner stating the nature of the work and the date on which it was performed and demanding payment of the costs as certified by the Zoning Administrator together with an additional twenty (20) percent for inspection and incidental costs.
4. If the amount specified in the notice is not paid within ninety (90) days of the notice, it shall become a lien against the property of the sign owner (unless the sign owner does not own the premises upon which the sign is located), and will be certified as an assessment against the property.
5. For purposes of removal, the definition of sign shall include all sign embellishments and structures designed specifically to support the sign.

CHAPTER TWELVE. ADMINISTRATION AND ENFORCEMENT

SECTION 12.01 ZONING ADMINISTRATION

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator.

SECTION 12.02 ZONING ADMINISTRATOR

The Zoning Administrator shall be appointed by the Township Board. To be eligible for the appointment to the post of Zoning Administrator, the applicant must:

A. Be generally informed of the provisions of this Ordinance.

B. Have a general knowledge of the building, arts, and trades.

C. Be certified by the State, if required.

SECTION 12.03 DUTIES AND LIMITATIONS OF THE ZONING ADMINISTRATOR

The Zoning Administrator shall administer and enforce the provisions of this Ordinance and shall have the power to grant such permits as are required by this Ordinance and shall be responsible for the inspection of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance.

SECTION 12.04 PERMITS REQUIRED

It shall be unlawful for any person, firm or corporation to excavate, erect, construct, enlarge, alter, repair, move, improve, remove, convert any building or structure in Portsmouth Township without first obtaining such a permit from the Zoning Administrator in accordance with the provisions of Section 12.05.

SECTION 12.05 ZONING PERMITS

A. **Application.** Before proceeding with the construction, alteration, moving or use of any building or structure, or the use of any premise subject to the provisions of this Ordinance, the owner thereof shall first obtain a zoning permit from the Zoning Administrator. Applications shall be made in writing upon forms provided by the Township. It shall be the duty of all architects, contractors, and other persons having charge of construction or movement to determine that proper certification has been issued before undertaking any such work, and all persons performing such work in violation shall be deemed guilty of municipal civil infraction in the same manner as the owner of the premises.

B. **Application Review Process.** On submission of an application, the Zoning Administrator will review the application material to determine the appropriate review process as outlined in this Ordinance. Whenever possible, it is desirable for this review to be conducted with the applicant present to facilitate any necessary explanation.

   The Zoning Administrator will forward the application on to the Planning Commission or Zoning Board of Appeals for approval in cases which require approval by those bodies. In cases of applications which require administrative approval of the Zoning Administrator, an administrative review will occur prior to the issuance of a zoning permit.

C. **Zoning Permits.**
   1. A zoning permit is required prior to the issuance of a building permit.
   2. Zoning Permit Required: No building or structure shall hereafter be erected, structurally altered, reconstructed, used, or moved, nor shall any use subject to the provisions of this Ordinance be commenced until a zoning permit application has been filed, and a zoning permit has been issued by the Zoning Administrator, except as otherwise provided for in this Ordinance. No zoning permit shall be required for a lawful use of any building or structure in existence as of the adoption date of this Ordinance. Exempted from the zoning permit requirements are exterior alterations and ordinary maintenance repairs that do not require a building, mechanical, electrical, or plumbing permit.
   3. Final Plot Plan or Site Plan Approval Required:
      a. The Township shall not issue a zoning permit until a final plot plan or site plan has been approved and is in effect.
      b. No grading, removal of trees or other vegetation, land filling or construction of improvements shall commence for any development which requires site plan approval until a final site plan is approved and is in effect.
   4. Other Required Permits: A zoning permit shall not be issued until all other necessary permits required by statue have been obtained or waived except for those permits which are contingent upon the issuance of a zoning permit.

5. Construction Code Compliance: Construction, including mobile home placement may be commenced only after a building permit has been obtained in accordance with the applicable building, plumbing and/or electrical codes applicable within the Township and/or the United States Department of Housing and Urban Development, Mobile Home Construction and Safety Standards.
6. Notification of Availability of Property for Inspection: When alterations begin or when the footings of a building have been constructed and before the completion of the foundation walls and also at the time of the completion of the frame and skeleton construction, the owner, contractor or his agent shall notify the Zoning Administrator in order that the inspection may be made at each of these times.
7. Final Inspection: The Zoning Administrator shall be given the opportunity to make a final inspection of all buildings and structures after completion, before occupancy begins, upon receiving notice from the owner, contractor or his agent that said building is ready for final inspection. If such building or alterations comply with the statements in the application, plans, working drawings, and specifications, a certificate of zoning compliance shall be issued.
8. Issuance of Zoning Permit: The application, plans, and specifications filed by an applicant for a permit shall be checked by the Zoning Administrator. Such plans may be reviewed by other officials of the Township to check compliance with the laws and ordinances under their jurisdiction. If the Zoning Administrator is satisfied that the work described in an application for a permit and the plans filed therewith conform to the requirements of this Ordinance, the Building Code, and other pertinent laws and ordinances, and that the fee as required in Section 12.05(C)11 has been paid, the Zoning Administrator shall issue a permit therefor to the applicant; however:
    a. Issuance of a permit shall in no case be construed as waiving any provision of this Ordinance or the applicable construction codes.
    b. The Zoning Administrator, under no circumstances, is permitted to grant exceptions to the actual meaning of any clause, order or regulation contained in this Ordinance.
    c. The Zoning Administrator is not permitted to make changes in this Ordinance or to vary the terms of this Ordinance in carrying out his duties as Zoning Administrator.
    d. The Zoning Administrator shall issue a permit when the imposed conditions of this Ordinance are met by the applicant, regardless of the effect of such a permit on contracts, such as deed covenants or private agreements.
    e. If any application for such permit is not approved, the Zoning Administrator shall state, in writing, the cause for such disapproval.
9. Zoning Permit Expiration: The zoning permit will expire after six (6) months from date of issuance if no building permit has been taken out. Site plan approval may be extended pursuant to Section 8.11 of the Ordinance.
10. Zoning Permit Revocation: The Zoning Administrator shall have the power to revoke or cancel any zoning permit in case of failure or neglect to comply with the provisions of the Ordinance, or in the case of a false statement or misrepresentation made in the application. The owner shall be notified of such revocation in writing. The Planning Commission shall have the power to revoke a special use permit.

11. Payment of Fees: No zoning permit shall be valid until the required fees have been paid. No separate fee shall be required for accessory buildings or structures when application thereof is made at the same time as the principal building or structure. Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees as specified by the Township Board.
    a. Where structures have begun construction or are occupied before any required approval is granted, the fees for such application approval shall be doubled. Payment of such fees shall not relieve any person from fully complying with the requirements of this Ordinance.
12. Conformance with Approved Plans: Permits issued on the basis of plans and applications approved by the Zoning Administrator or Planning Commission authorize only the use, arrangement and construction set forth in such approved plans and applications. Any other use, arrangement or construction at variance with that authorized shall be deemed a violation of this Ordinance.
13. Failure to Obtain Permit: Any person, partnership, limited liability company, corporation, association or other entity who fails to obtain any necessary zoning permit shall be subject to Section 12.10 and the requirements of this section.
14. Right to Appeal: Pursuant to Section 14.05 of the Ordinance, where it is alleged there is error of principle in any order, requirement, decision or determination made by the person or body charged with administration or enforcement of the Zoning Ordinance, an aggrieved party may submit an appeal in accordance with the procedure outlined in Section 14.08.

D. **Record Maintained.** The Zoning Administrator shall keep a record of each application for a site plan that has been submitted including the disposition of each one, per the Township retention policy. This record shall be a public record, open for inspection upon request.

E. **Zoning Permit Application Requirements.** To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall include:
    1. Identify and describe the work to be covered by the permit for which application is made.
    2. Describe the land on which the proposed work is to be done by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.
    3. Indicate the use or occupancy for which the proposed work is intended.
    4. Be accompanied by plans and specifications, as required in Section 8.02.
    5. State the valuation of the proposed work.
    6. Be signed by the applicant, or his authorized agent, who may be required to submit evidence to indicate such authority.
    7. State whether the Planning Commission had required a site development plan, and if so required, attach a certified copy of the Planning Commission's approval of same.
    8. If site plan approval is not required, give such other information as reasonably may be required by the Zoning Administrator, including, but not limited to, the following:
        a. The actual shape, location and dimensions of the lot; if the lot is not a lot of record, sufficient survey data to locate the lot on the ground.

b. The shape, size, area, and location of the building or structure to be excavated, erected, constructed, enlarged, altered, repaired, moved, improved, converted, or demolished, and of any buildings or other structures already on the lot.
c. The existing and intended use of this lot and of all structures upon it.
d. Such other information concerning the lot, adjoining lots or other matters as may be essential for determining whether the provisions of this Ordinance are being observed.

Section 12.06 PUBLIC NOTICE REQUIREMENTS

A. **State Requirements.** All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, 2006 PA 110 as amended, MCL 125.3101 et seq. and the other provisions of this Section with regard to public notification.

B. **Published Notice.** When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in Portsmouth Charter Township and mailed or delivered as provided in this Section.

C. **Content.** All mail, personal and newspaper notices for public hearings shall:
1. Nature of Request: Describe the nature of the request. Identify whether the request is for a rezoning, text amendment, special land use, variance, appeal, Ordinance interpretation or other purpose.
2. Location: Indicate the property that is subject to the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identification of the nearest cross street, or the inclusion of a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an Ordinance interpretation not involving a specific property.
3. Date, Time, and Location: When and where the request will be considered: indicate the date, time, and place of the public hearing(s).
4. Written comments: Include a statement describing when and where written comments will be received concerning the request via mail and email. Include a statement that the public may appear at the public hearing in person or by council.
5. Accessibility: Information concerning how access will be accommodated if the meeting facility is not accessible.

D. **Notice.**

1. Notices for all public hearings shall be given as follows:
   a. Notice of the hearing shall be not less than fifteen (15) days before the date of the public hearing.
   b. Notice of the hearing shall be published in a newspaper of general circulation.
   c. Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered and the applicant, if different than the owner(s) of the property.
   d. Notice shall also be sent by mail to all persons to whom real property is assessed within three hundred (300') feet of the property and to the occupants of all structures within three hundred (300') feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.
      i. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
      ii. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
2. Notice for Multiple Properties: Newspaper publication as required in subsection D(1) above shall be the only notice required for an amendment to the Zoning Ordinance or the zoning map that affects eleven (11) or more properties.
3. Interpretation: For Ordinance interpretations and appeals of administrative decisions by the Zoning Board of Appeals notice that does not affect a specific property shall be only to the applicant and by newspaper publication, as required in subsection D(1), above.
4. Notice Deemed Given: Notice shall be deemed given when personally delivered or by its deposit in the United States mail, first class, properly addressed, postage paid. Zoning staff shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.
5. Registration to Receive Notice by Mail:
   a. General: Any neighborhood organization, public utility company, railroad or any other person may register with the Zoning Administrator to receive written notice of all applications for development approval or written notice of all applications for development approval within the zoning district in which they are located. The Township Clerk shall be responsible for providing this notification, as established by the Township Board.
   b. Requirements: The requesting party must provide the Zoning Administrator information to ensure notification can be made. All registered persons must register annually to continue to receive notification pursuant to this Section.

SECTION 12.07 PLANS AND SPECIFICATIONS

Plans and specifications shall be submitted to the Zoning Administrator in accordance with the requirements of the Zoning Ordinance. The Zoning Administrator, at his discretion, may require a certified property survey to ensure that the provisions of this Ordinance are met. Also, the Zoning Administrator shall be provided a certified survey if one is required by State law prior to issuance of any permits.

SECTION 12.08 PERFORMANCE GUARANTEES

A. The Planning Commission, Zoning Board of Appeals and Township Board are empowered to require a performance bond or cashier's check, or other suitable negotiable security, in an amount equal to the estimated cost of improvements associated with the project.

B. Such performance guarantee shall be deposited with the Clerk of the Township at the time of the issuance of the permit authorizing the activity or project to ensure faithful completion of the improvements indicated with the approved site plan; if not, said performance bond or cashier's check shall be forfeited.

C. The Township shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator.

D. In cases where the improvements indicated with the approved site plan have not been completed in accordance with the approval granted, the amount of the aforementioned performance guarantee may be used by the Township to complete the required improvements. The balance, if any, shall be returned to the applicant.

SECTION 12.09 AMENDMENTS TO THE ORDINANCE

A. **Initiation of Amendments.** This Ordinance may be amended or supplemented in accordance with P.A. 110 of 2006, the Zoning Enabling Act. Amendments to this Ordinance may be initiated by the Township Board, the Planning Commission, or by any interested person or persons by petition to the Planning Commission.

B. **Amendment Petition.** Individuals submitting petitions for amendment to this Ordinance shall be in writing, signed and filed with the Township Clerk for presentation to the Planning Commission. Such petitions shall include the following:
   1. The petitioner's name, address and interest in the petition and, if applicable, the name, address and interest of each person having a legal or equitable interest in any land which is to be rezoned.

2. The nature and effect of the proposed amendment.
3. If the proposed amendment would require a change in the Zoning Map, a fully dimensioned map showing the land which would be affected by the proposed amendment, a legal description of such land, the present zoning district of the land, the zoning district of all abutting lands, and all public and private rights-of-way and easements bounding and intersecting the land to be rezoned.
4. The alleged error, if any, in the Ordinance which would be corrected by the proposed amendment, with a detailed reason why the proposed amendment will correct the same.
5. The changed or changing conditions in the area or in the Township that make the proposed amendment reasonably necessary to the promotion of public health, safety, and general welfare.
6. All other circumstances, factors, and reasons which the petitioner offers in support of the proposed amendment.
7. A remittance to cover the cost incurred in notifying and conducting a public hearing, such a fee to be determined from time to time by the Township Board.

C. **Amendment Procedure.** After initiation, amendments to this Ordinance shall be considered as follows:
1. The Planning Commission shall authorize the preparation of the proposed amendment to be considered.
2. The Planning Commission shall set a time and place for a public hearing and provide for the legal publishing and proper posting of notices of such hearing time and date in a newspaper of general circulation in the Township. The first to be printed not more than thirty (30) days nor less than twenty (20) days before the date of hearing, and the second not more than eight (8) days before the date of hearing. Such notices shall include the places and times at which the tentative text or map change may be examined.
3. If an individual property or several adjacent properties are proposed for rezoning, the Planning Commission shall give a notice of the proposed rezoning to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all single and two-family dwellings within three hundred (300) feet. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment rolls. If the tenant's name is not known, the term "occupant" may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission before the hearing. The notice shall be made not less than eight (8) days before the hearing, stating the time, place, date, and purpose of the hearing. An amendment for the purpose of conforming a provision of the Zoning Ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the Township Board and the notice of the adopted amendment published without referring the amendment to any other board or agency.
4. At said hearing, the Planning Commission shall establish that the applicant has paid to the Township the fee established by the Township Board and that proper notices have been made.

5. The Planning Commission shall hold a public hearing, noting all comments and reports requested, or noting the absence of such.
6. Prior to voted approval, the Planning Commission may make minor changes in the amendment to reflect objections raised at the hearing or to correct any typographical or grammatical errors. The omission of the name of any owner or occupant of property who may, in the opinion of the Township Planning Commission, be affected by such amendment or change shall not invalidate any ordinance amendment passed hereunder; it being the intention of this Section to provide reasonable notice to persons substantially interested in the proposed change that an ordinance is pending before the Township Board, proposing to make a change in the Zoning Map or the regulations set forth in this Ordinance. The changed text shall be forwarded as above without further hearing.
7. If the Planning Commission desires to make major changes in the proposed amendment, it shall either adjourn the hearing, announcing at that time the time and place of the continuation thereof, or set a time and place for a new public hearing as called for above.
8. The Planning Commission shall forward the proposed amendment to the Township Board with recommendation for approval or denial. Any decision or recommendation shall contain the reasons therefor.
9. If a Township Board shall deem any amendments, changes, additions, or departures advisable as to the proposed amendment, it shall refer the same back to the Planning Commission for a report thereon within a time specified by the Board. After receiving the report, the Board shall grant a hearing on any proposed ordinance provision to any property owner who, by certified mail addressed to the Township Clerk, requests to be so heard and shall request the Planning Commission to attend any such hearing.
10. The Township Board shall publish the Ordinance amendment in a newspaper of general circulation within the Township within thirty (30) days after adoption.
11. The Township Board shall then file the Ordinance in the official ordinance book of the Township within seven (7) days after publication with a certification of the Clerk stating the vote on passage, date published, and date filed.

SECTION 12.10 PENALTIES AND ENFORCEMENT

A. **Responsibility.** It is the responsibility of the Zoning Administrator to enforce the provisions of this ordinance.

B. **Violations.** Whenever a violation of this Ordinance occurs or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the cases and basis thereof, shall be filed with the Zoning Administrator. They shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance. A record of the disposition of complaints shall be filed. Any owner or agent and any person or corporation who shall violate any of the provisions of this Ordinance, or any amendment thereof, or fail to comply therewith or with any of the requirements thereof or who shall erect, structurally alter, enlarge, rebuild or move any building or buildings or any structure, or who shall put into use any lot or land in violation of any statement or plan submitted hereunder, or shall refuse reasonable opportunity to inspect any premises, shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500) or shall be imprisoned for not more than ninety (90) days in the Bay County Jail, or both. Each and every day such violation continues shall be deemed a separate and distinct violation.

   The owner of any building or structure, lot or land, or part thereof, where anything in violation of this Ordinance shall be placed or shall exist, or any architect, builder, contractor, agent, person, or corporation employed in connection therewith and who assists in the commission of such violation shall each be guilty of a separate violation and, upon conviction thereof, shall each be liable to the fine or imprisonment, or both, as specified in this Section.

C. **Violation Declared Nuisances.** Any building or structure erected, altered, enlarged, rebuilt, or moved, or any use carried on in violation of any provisions of this Ordinance is hereby declared to be a nuisance per se. Any court of competent jurisdiction may order such nuisance abated and the owner guilty of maintaining a nuisance per se.

D. **Procedure.** The Township Board, the Board of Appeals, the duly authorized Attorney for the Township, the Prosecuting Attorney for Bay County, or any owners or occupants of any real estate within the Township may institute injunction, mandamus, abatement or any other appropriate action or proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

E. **Penalties.** Violations of any provisions of this Ordinance are declared to be enforceable under the provisions of this Zoning Ordinance. Every day that such violation continues constitutes a separate and distinct offense under the provisions of this Ordinance.

CHAPTER THIRTEEN. PLANNING COMMISSION

SECTION 13.01 AUTHORITY

The Portsmouth Township Planning Commission has been established as specified in Public Act 33 of 2008, as amended, being the Michigan Planning Enabling Act. All powers, duties, and responsibilities provided by Public Act 110 of 2006 as amended, being the Michigan Zoning Enabling Act for zoning boards created thereunder, are transferred to the Planning Commission by resolution of the Township Board as provided in Public Act 33 of 2008, as amended. The Planning Commission shall perform the duties of said Planning Commission as provided in these acts, together with such other powers and duties given to such Planning Commission by the provisions of this Ordinance, including authority to act on all matters requiring the approval or recommendation of such Planning Commission.

SECTION 13.02 MEMBERSHIP, MEETINGS, AND RULES

A. **Members.** The Planning Commission shall consist of not less than five (5) nor more than nine (9) members, who shall be representative of major interests as they exist in the Township, such as agriculture, recreation, education, public health, government, commerce, transportation and industry. All members shall be qualified electors and property owners of the Township. One (1) member of the Township Board shall be a member of the Planning Commission.

B. **Appointment.** All members of the Planning Commission shall be appointed by the Township Supervisor with the approval of the Township Board. Members may be removed by the Township Supervisor, after a hearing, with the approval of the Township Board, as prescribed by PA 33 of 2008.

C. **Term.** The term of each member shall be for three (3) years, except that of the members first appointed, one-third (1/3) shall serve for one (1) year, one-third (1/3) for two (2) years, and one-third (1/3) for three (3) years. All vacancies for unexpired terms shall be filled for the remainder of such term. If no appointment is made, then members shall continue to hold office until replaced.

D. **Compensation.** Members of the Planning Commission may be compensated for their services as provided by the Township Board. The Board annually shall appropriate and make funds available for carrying out the purposes and functions permitted under this act, and may match Township funds with federal, state, county or other local government or private grants. The Township Board may accept and use gifts and grants, for Planning Commission purposes. Money so accepted shall be deposited with the Township Treasurer in a special non-reverting Planning Commission Fund for expenditure by the Planning Commission for the purpose designated by the donor. The expenditures of the Planning Commission, exclusive gifts and grants, shall be within the amounts appropriated by the Township Board.

E. **Officers.** The Planning Commission shall elect a chairman, vice chairman, and secretary from its members, and create and fill such other offices or committees as it may deem advisable. The Commission may appoint advisory committees outside of its membership. The terms of all shall be one (1) year.

F. **Meetings.** The Planning Commission shall hold at least four (4) regular meetings each year and, by resolution, shall determine the time and place of such meetings. Special meetings may be called by two (2) members upon written request to the secretary or by the Chairman.

G. **Staff.** The Township Board, upon recommendation of the Planning Commission, may employ a planning director or other planning personnel, contract for the part-time or full-time services of planning and other technicians, and pay or authorize the payment of expenses within the funds budgeted and provided for planning purposes.

H. **Record.** The Planning Commission shall adopt rules for the transaction of business, and shall keep a public record of its resolutions, transactions, findings and determinations.

I. **Annual Report.** It shall make an annual written report to the Township Board concerning its operations and the status of planning activities, including recommendations regarding actions by the Township Board related to planning and development.

SECTION 13.03 RESPONSIBILITIES AND DUTIES

In addition to the powers and duties provided for by the statute, the Planning Commission shall function as the administrative agency responsible for zoning and planning within the Township and shall, among other things:

A. **Record.** Maintain a separate record of all actions taken on issues involving its deliberations and decisions involving zoning.

B. **Site Plan Review.** Review site plans and issue approval, conditional approval, or denial, where required by the provisions of this Ordinance.

C. **Written Decision.** Issue written opinion to applicants.

D. **Special Uses.** Review applications for special uses and conduct public hearings pursuant to the statutory procedures provided by Chapter 7, Section 7.04. Following the public hearing, issue approval, conditional approval, or denial of the special land use application.

E. **Amendments.** Review and decide upon amendments to this Ordinance and conduct public

hearings pursuant to the statutory procedures provided by Chapter 12, Section 12.09. Following a public hearing, the Planning Commission shall make its recommendation regarding the proposed text change to the Board.

F. **Rezoning.** Review and decide upon rezoning requests to this Ordinance and Zoning Map and conduct public hearings pursuant to the statutory procedures provided by Chapter 12, Section 12.09. Following a public hearing, the Planning Commission shall make its recommendation regarding the proposed rezoning to the Board.

G. **Zoning Map.** Maintain a Township zoning map defining such use districts.

H. **Plat Review.** The Township Board shall refer plats or other matters relating to land development to the Planning Commission before final action is taken by the Township Board.

I. **Master Plan.** Maintain a Master Plan for potential growth, expansion, or other change to the community.
   1. Such plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the prospective development of the said areas, including, among other things:
      a. The general relation, character, and extent of streets, bridges, boulevards, parkways, playgrounds, and open spaces;
      b. The general relation of public buildings, and of other public property;
      c. The general location and extent of all public utilities and terminals whether public, privately owned, or operated for water, light, sanitation, transportation, communication, power, and other purposes;
      d. The removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities, or terminals;
      e. The general location, character, layout, and extent of community centers and neighborhood units; and
      f. The general character, extent, and layout of the replanning and redevelopment of any blighted districts; as well as a zoning plan for the control of the height, area, bulk, location, and use of buildings and premises.
   2. The Master Plan shall be made with the general purpose of guiding, and accomplishing a coordinated, adjusted, and harmonious development of the Township, and its environs, which will, in accordance with present and future needs, best promote health, safety, and general welfare, as well as efficiency and economy in the process of development; including, among other things:
      a. Adequate provisions for traffic;
      b. Promotion of public safety;
      c. Adequate provisions for light and air;
      d. The promotion of a healthful and convenient distribution of the population;

e. The promotion of good civic design and arrangement;
f. Wise and efficient expenditure of public funds, and;
g. The adequate provisions of public utilities and other public requirements.

CHAPTER FOURTEEN. ZONING BOARD OF APPEALS

SECTION 14.01 AUTHORITY

The Township of Portsmouth hereby establishes a Zoning Board of Appeals (ZBA). The ZBA shall perform its duties and exercise its powers as provided in Article VI of the Michigan Zoning Enabling Act (PA 110 of 2006). In order to ensure that the objectives of this Ordinance are observed that public safety, morals and general welfare are protected, and that substantial justice is provided.

If not in direct conflict the terms of the statute shall prevail, except as modified by the terms of this Ordinance.

SECTION 14.02 MEMBERSHIP

A. **Regular Members.** There is hereby created a Board of Appeals consisting of three (3) members: the first member of such Board of Appeals shall be a member of the Planning Commission appointed by the Township Board; the second member shall be a member of the Township Board appointed by the Township Board; and the third member shall be selected and appointed by the Township Board provided that no elected officer of the Township nor any employee of the Township Board shall serve simultaneously as the third member or as an employee of the ZBA.

B. **Alternative Members.** The Township Board may appoint not more than two (2) alternate members to the Zoning Board of Appeals for the same term as regular members. If two (2) alternate members have been appointed, they may be called on a rotating basis, as they are available to sit as regular members of the Zoning Board of Appeals in the absence of a regular member. Alternate members may also be called to serve in the place of a regular member when such member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. An alternate member shall only serve to discuss or vote upon a case in the absence of a regular member or upon the conflict of interest of a regular member. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

C. **Term.** Initially, one (1) member of the Board of Appeals shall be appointed for a term of three (3) years; one (1) member shall be appointed for a term of two (2) years; and one (1) member shall be appointed for a term of one (1) year. Thereafter, each member, when appointed, shall have a term of three (3) years. Terms of members serving because of their membership on the Planning Commission or Township Board shall be limited to the time they are members of the Planning Commission or Township Board and the periods stated in the resolution appointing them.

D. **Elections.** The Board of Appeals shall elect one (1) of its members as its chairman and one (1) of its members as secretary and shall prescribe rules for the conduct of its affairs. The member of the Township Board who is a member of the Board of Appeals shall not serve as the Chairman of the Board of Appeals. Copies of the rules shall be made available to the public at the Office of the Township Clerk.

E. **Compensation.** Each member shall receive a reasonable sum as determined by the Township Board for services in attending each regular or special meetings of said Board of Appeals.

F. **Removal.** Members of the Board of Appeals may be removed by the Township Board for nonperformance of duty or misconduct in office upon written charges and after public hearing.

SECTION 14.03 MEETINGS

A. **Meetings and Rules of Procedure.** The Zoning Board of Appeals shall adopt its own rules of procedure and meetings shall be held at the call of the Chairman and at such times as the Board may determine. The Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses.

B. **Open Meetings.** Such meetings shall be open to the public in compliance with the Open Meetings Act, 1976 PA 267, as amended, and this Ordinance.

C. **Records.** The Board of Appeals shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk, and which shall be a public record.

D. **Quorum.** The presence of two (2) members shall constitute a quorum, but the concurring vote of a majority of all members of the Board of Appeals shall be necessary to reverse any order, requirements, decision or determination of the administrative official or body, or to decide on any matter upon which it is required to pass under this Ordinance or to effect any variation in such Ordinance.

SECTION 14.04 JURISDICTIONS AND RESPONSIBILITIES

The Zoning Board of Appeals shall have all the powers and duties prescribed by the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, and the following specific jurisdiction and powers:

A. **Administrative Review.** To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or any other administrative official in carrying out or enforcing any provision of this Chapter, subject to the provisions of Section 14.05.

B. **Interpretation of Zoning Ordinance Provisions.** To hear and decide requests for interpretations of Zoning Ordinance provisions or the official zoning map, subject to the provisions of Section 14.06.

C. **Variance.** To authorize, upon an appeal, a variance from the strict application of the provisions of this Chapter, subject to the provisions of Section 14.07.

SECTION 14.05 APPEALS

A. **Administrative Appeals.** The Zoning Board of Appeals (ZBA) shall hear and decide appeals where it is alleged there is error of principle in any order, requirement, decision or determination made by the person or body charged with administration or enforcement of the Zoning Ordinance. Consideration of administrative appeals shall be subject to the following:
   1. Standing to Appeal: Such appeals may be taken to the ZBA by any person, firm or corporation; or by any officer, department, board or bureau affected by a decision of the Zoning Administrator. Such appeal shall be taken within such time as it shall be prescribed by the ZBA by general rule, by filing with the Zoning Administrator and the ZBA a notice of appeal, specifying the ground thereof. The Zoning Administrator shall transmit to the ZBA all of the documentation constituting the record upon which the action appealed from was taken.
   2. Stay of Proceedings: An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the ZBA after notice of appeal has been filed that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such cases, the proceedings shall not be stayed other than by a restraining order issued by a court of record.
   3. Review Criteria for Administrative Appeals: The ZBA shall reverse an administrative decision only upon determining the order, requirement, decision, or determination:
      a. Constituted an abuse of discretion;
      b. Was arbitrary or capricious;
      c. Was based upon an erroneous finding of a material fact; or
      d. Was based upon an erroneous interpretation of the Zoning Ordinance.
   4. Actions: After making such a determination, the ZBA may reverse or modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as, in its determination, ought to be made under the provisions of this Chapter. In doing so, the ZBA shall exercise all authority granted by this Chapter to the person or body from whom the appeal is taken.
   5. Any person who has an interest affected by any such decision shall have the right to appeal to the Circuit Court on questions of law and fact.

SECTION 14.06 INTERPRETATION

A. **Interpretation of Zoning District Boundaries.** Where an ambiguity exists as to zoning district boundaries, the ZBA shall have the power to interpret the zoning map in such a way as to carry out the intent and purpose of the Zoning Ordinance and Master Plan. The following rules apply to such interpretations:
   1. Boundaries indicated as approximately following the centerlines of streets, highways, alleys, watercourses, lot lines, or municipal boundaries shall be construed to follow such lines.
   2. Boundaries indicated as following railroad lines or utility easements shall be construed to be midway between the main tracks, or along the centerline of such easements.
   3. Boundaries that parallel or are extensions of features indicated in this Section shall be so construed.
   4. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
   5. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, the ZBA shall interpret the district boundaries.

B. **Interpretation of Zoning Ordinance Provisions.** The ZBA shall have the power to hear and decide requests for interpretations of Zoning Ordinance provisions in such a way as to preserve and promote the character of the zoning district in question and carry out the intent and purpose of this Chapter and master plan.
   1. Further, in recognition that every potential use cannot be addressed in this Chapter, the ZBA shall have the authority to determine whether a proposed use not listed in this Chapter is similar to a permitted or special land use permitted by this Chapter, subject to the following:
      a. Prior to making such a determination, the ZBA must find that the principal or special land use closely resembles the proposed use in terms of characteristics, intensity, nature and other applicable common elements of such uses.
      b. The ZBA may determine whether the use is (or is not) similar to a use listed in this Chapter or may recommend to the Township Board that the proposed use be addressed through an amendment to this Chapter.
      c. If it is determined that there is no similar use listed in this Chapter, the use shall be prohibited.
      d. If it is determined that the proposed use is similar to a use listed in this Chapter, the proposed use shall comply with any conditions or special land use standards that apply to the listed use.
      e. The ZBA may impose additional conditions or limitations upon the proposed use necessary to satisfy the intent and purposes of this Chapter, to protect the health, safety, or welfare, or to preserve the social and economic wellbeing of adjacent residents and landowners, or the Township as a whole.

SECTION 14.07 VARIANCES

A. The ZBA shall have the authority to grant variances from specific requirements of this Chapter in accordance with Article VI of the Michigan Zoning Enabling Act (P.A. 110 of 2006) and the provisions of this subchapter. The ZBA shall state the grounds upon which it justifies the granting or denying of a variance and may consider lesser variances than that requested by an applicant. In granting a variance, the ZBA may impose conditions or limitations as it may deem reasonable in furtherance of the intent and purposes of this Chapter.

B. **Dimensional Variances.** The granting of a variance from particular area, setback, frontage, height, bulk, density, or other dimensional (non-use) standards of this Chapter shall require a finding of practical difficulties, based upon the following criteria:
   1. Strict compliance with the specified dimensional standard(s) will deprive the applicant of rights commonly enjoyed by other property owners in the same zoning district, create an unnecessary burden on the applicant, or unreasonably prevent the owner from using the property for a permitted purpose.
   2. The variance will do substantial justice to the applicant, as well as to other property owners, and a lesser variance than requested will not give substantial relief to the applicant or be consistent with justice to other property owners.
   3. The need for the variance is due to unique circumstances peculiar to the land or structures involved, that are not applicable to other land or structures in the same district.
   4. The problem and resulting need for the variance has not been self-created by the applicant or the applicant's predecessors.
   5. The variance will not cause significant adverse impacts to adjacent properties, the neighborhood or the Township, and will not create a public nuisance or materially impair public health, safety, comfort, morals or welfare.
   6. The alleged practical difficulties that will result from a failure to grant the variance include substantially more than mere inconvenience, or an inability to attain a higher financial return.

C. **Use Variances.** Use variances shall be prohibited within the Township.

D. **Resubmission.**
   1. No variance request which has been decided by the ZBA shall be submitted for reconsideration with a one (1) year period from the date of the original application unless the Zoning Board of Appeals finds that at least one (1) of the following conditions exist:
      a. That the conditions involving all of the reasons for the original denial have been significantly altered.
      b. That new conditions or circumstances exist which change the nature of the original request.

SECTION 14.08 APPLICATION AND PROCEDURE

A. **Applications.** All applications to the ZBA shall be filed with the Zoning Administrator, with payment of the appropriate review fee established by Township Board. At a minimum, applications shall include the following:
   1. The applicant's name, address, and contact information; and the address and location of the property are included in the request.
   2. Zoning classification of the subject parcel(s) and all abutting parcels.
   3. A plot plan of the site, drawn to scale with a north-arrow, showing all lot lines, street rights-of-way, easements, structures, setback dimensions, parking areas, driveways, sidewalks and other site improvements.
   4. A letter from the applicant stating the reasons for the request and addressing the applicable review criteria specified in this subchapter for the type of request.
   5. Any additional information deemed necessary by the ZBA to make a determination on the issue in question.

B. **Fee.** Before accepting any requests in which the ZBA has appellate or original jurisdiction under the provisions of this Chapter, the Charter Township of Portsmouth shall charge and collect the fees in accordance with the schedule of fees adopted by the Township Board resolution. If an applicant requests and receives a postponement of the hearing subsequent to the mailing of notices and advertisement of a public hearing, said applicant shall pay the necessary expenses incurred by the Township to re-notice the hearing. When a matter is referred by the Planning Commission, as required by the Zoning Ordinance, to the Board of Appeals for consideration, no fee shall be charged.

C. **Hearing and Public Notice.** The ZBA shall fix a reasonable time for the hearing of the application or appeal and shall give notice of the hearing pursuant to PA 110 of 2006, and Chapter 12, Section 12.06. At the hearing, any party may appear in person or by agent or by attorney.

D. **Decision of the Board.**
   1. The concurring majority vote of the full membership of the ZBA shall be necessary to reverse any order, requirement, decision or determination of any administrative official or body, or to decide in favor of the applicant any matter upon which they are required to pass under this Ordinance, or to grant a non-use variance.
   2. The Board shall decide on all applications and appeals within thirty (30) days after the final hearing thereon. A certified copy of the Board's decision shall be transmitted to the applicant or appellant and to the Zoning Administrator. Such decision shall be binding upon the Zoning Administrator and observed by the Zoning Administrator, and they shall incorporate the terms and conditions of the same in the permit to the applicant or appellant, whenever a permit is authorized by the ZBA.

3. The decision of the Board shall not become final until the expiration of five (5) days from the date such decision is made, unless the Board finds the immediate effect of such decision is necessary for the preservation of property or personal rights and shall so be certified on the record.
4. A decision or variance granted by the ZBA runs with the land and shall be valid after transfer of property ownership.

E. **Written Record.** Each decision shall include a written record of the specific findings and determinations made by the ZBA in the case.

F. **Conditions.** In granting the variance, the ZBA may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.

G. Upon the day for hearing any application or appeal, the Board of Appeals may adjourn the hearing in order to permit the obtaining of additional information or to cause such further notice, as it deems proper, to be served upon such other property owners as it decides may be interested in said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing.

H. At the hearing, any party may be heard in person or by agent or attorney.

SECTION 14.9 LIMITATIONS OF AUTHORITY

A. **Limitations of Authority.** The following specific limitations shall apply to the authority of the ZBA:
1. Expiration of Approval: No order of the ZBA permitting the erection or alteration of a structure, or use of a structure or land, shall be valid for a period longer than 365 calendar days, unless the applicant shall have taken substantial steps toward implementing the variance within said period; provided, however, that the ZBA may extend such period for a further period not exceeding one (1) calendar year upon application and without further notice.
2. Limitations on Review: The ZBA shall not have the authority to consider appeals of any decisions by the Planning Commission regarding amendments to this Chapter, or special land uses.
3. Code Changes Prohibited: The ZBA shall not have the authority to alter this Zoning Ordinance or Map.

CHAPTER FIFTEEN. DEFINITIONS

SECTION 15.01 RULES APPLYING TO TEXT

The following listed rules of construction apply to the text of this Ordinance:

A. The particular shall control the general.

B. In the case of any difference in meaning or implication between the text of the Ordinance and any caption or illustration, the text shall control.

C. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.

D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates the contrary.

E. A “building” or “structure” includes any part thereof.

F. The word “person” includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

G. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows:
   1. “And” indicates that all connected items, conditions, provisions, or events shall apply.
   2. “Or” indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.
   3. “Either-or” indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.

H. Terms not herein defined shall have the meaning customarily assigned to them.

SECTION 15.02 DEFINITIONS

For the purposes of the Zoning Ordinance, certain terms and/or words are defined as follows:

ACCESSORY BUILDING
A building or portion of a building subordinate to a main building on the same lot occupied by or devoted exclusively to an accessory use.

ACCESSORY POND
A manmade excavation or impoundment of surface water designed to retain or detain water as an accessory use to a principal non-agricultural permitted use.

ACCESSORY USE
A use naturally and normally incidental and subordinate to and devoted exclusively to the main use of the premises.

ADULT BOOK STORE
Any establishment, or part thereof, having as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specific sexual activities" or "specific anatomical areas" as defined herein, or an establishment with a segment or section devoted to the sale or display of such material.

ADULT DAY CARE FACILITY
An establishment having as its principal function the receiving of one (1) or more persons eighteen (18) years of age or older for the provision of supervision, personal care, and protection for periods of less than twenty-four (24) hours a day, four (4) or more days a week, for two (2) or more consecutive weeks. Adult day care facilities may be further defined as follows:

A. **Adult Day Care Center.** A facility other than a private residence, receiving more than six (6) adults for group care periods of less than twenty-four (24) hours a day.

B. **Adult Family Day Care Home.** A private residence in which one (1) but less than seven (7) adults are given care and supervision for periods of less than twenty-four (24) hours a day except adults related to the family by blood, marriage or adoption.

C. **Adult Family Group Day Care Home.** A private residence in which more than six (6) but not more than twelve (12) adults are given care and supervision for periods of less than twenty-four (24) hours a day except adults related to the family by blood, marriage or adoption.

D. Adult day care facilities do not include adult foster care facilities or child care organizations as defined in this chapter.

ADULT ENTERTAINMENT ESTABLISHMENT
A commercial establishment open to the public which:

A. Displays, distributes, issues, gives, provides, lends, delivers, transfers, transmits, distributes, circulates, disseminates, presents, exhibits, advertises, sells, rents, or leases a substantial or

significant portion of its stock in trade, materials, distinguished or characterized by specified anatomical area; or which

B. Utilizes a substantial or significant portion of its display areas, including, but not limited to, floor, shelf, rack, table, stand, or case, for the display of such material; or which

C. Exhibits for a substantial or significant portion of the total presentation time, such material; or which

D. Involves employees or customers who engage in conduct which is distinguished or characterized by specified sexual activities or specified anatomical areas.

ADULT FOSTER CARE FACILITY
An establishment having as its principal function the receiving of persons eighteen (18) years of age or older for the provision of supervision, personal care and protection, in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation, as licensed and regulated by the state under Act No. 218 of the Public Acts of 1979 and the associated rules promulgated by the State Department of Social Services. Such facilities may be further defined as follows:

A. **"Adult Foster Care Camp" or "Adult Camp"** means an adult foster care facility with the approved capacity to receive more than four (4) adults who shall be provided foster care. An adult foster camp is a facility located in a natural or rural environment.

B. **"Adult Foster Care Congregate Facility"** means an adult foster care facility with the approved capacity to receive more than twenty (20) adults who shall be provided foster care.

C. **"Adult Foster Care Family Home"** means a private residence with the approved capacity to receive not more than six (6) adults who shall be provided foster care for five (5) or more days a week and two (2) or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence**.**

D. **"Adult Foster Care Large Group Home"** means an adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults who shall be provided foster care.

E. **"Adult Foster Care Small Group Home"** means an adult foster care facility with the approved capacity of not more than twelve (12) adults who shall be provided foster care.

F. Adult foster care facility does not include any of the following:
   1. Adult day care facilities as defined in this Chapter.

2. Nursing homes, homes for the aged, or hospitals as defined in this Chapter and as licensed under Article 17 of the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended, or facilities operated under the Mental Health Code and Social Welfare Acts, being Act No. 258 of the Public Acts of 1974 and Act No. 280 of the Public Acts of 1939, respectively.
3. A child care organization as defined in this Chapter if the number of residents who become eighteen (18) years of age while residing in the facility does not exceed the following:
   a. Two (2), if the total number of residents is ten (10) or fewer.
   b. Three (3), if the total number of residents is not less than eleven (11) and not more than (14).
   c. Four (4), if the total number of residents is not less than fifteen (15) and not more than twenty (20).
   d. Five (5), if the total number of residents is twenty-one (21) or more.
4. An establishment commonly described as an alcohol or substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house which does not provide or offer to provide foster care.
5. A veterans facility created under Act No. 152 of the Michigan Public Acts of 1885, as amended.

AGRICULTURAL POND
A manmade excavation or impoundment of surface water designed to retain or detain water for agricultural purposes.

AGRICULTURE
The cultivation, raising, and storage of crops, animals, and animal products carried out by a farming operation or on a farm as defined in this Chapter.

AIRPORT
An area of land that is used for or incidental to the landing, take off, and parking of aircraft, including buildings and facilities. For the purpose of this definition, airport related buildings and facilities may include control towers, passenger terminal buildings, fixed base operators, hangars, rental car facilities, aircraft fueling facilities, air cargo facilities, fire and rescue equipment and facilities, visual and electronic navigational aids, meteorological equipment and stations, airport maintenance facilities and buildings, automobile parking for employees and passengers, viewing areas, and contiguous reserve land held for such uses and purposes.

ALLEY
A public way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

ALTERATION-STRUCTURAL
Any change in the supporting members of any building or structure, including, but not to the exclusion of, other supporting members, bearing walls, columns, posts, beams, girders and any architectural change of the interior or exterior which may affect the structural integrity of the building.

APARTMENT BUILDING
"See Dwelling-Multiple Family" as defined by this Chapter.

AUTOMOBILE REPAIR-MAJOR
General repair, rebuilding, or reconditioning of engines, motor vehicles or trailers, collision service, including body repair and frame straightening, and painting.

AUTOMOBILE REPAIR-MINOR
Minor repairs, incidental replacement of parts, motor service, upholstering, vehicle steam cleaning and undercoating to passenger automobiles and trucks not exceeding two (2) tons capacity, but not including any operation specified under "Automobile Repair-Major".

AUTOMOBILE SALVAGE
The dismantling or disassembling of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, or wrecked vehicles or their parts.

AUTOMOBILE SERVICE STATION
A building, structure, or land used for the retail sale of fuel, lubricants, grease, and other operating commodities for motor vehicles and including the customary space and facilities for the installation of such commodities on or in such vehicles and including space for storage, hand washing, minor repair, and servicing but not including major automobile repair or bulk fuel distributing.

AUTOMOBILE WASH ESTABLISHMENT; ALSO REFERRED TO AS CAR WASH ESTABLISHMENT
A building, or portions thereof, the primary purpose of which is that of washing motor vehicles, either manually or automatically.

AVERAGE GRADE
The average finished ground elevation at the center of all walls of a building established for the purpose of regulating the number of stories and height of the buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building or structure being measured.

BASEMENT
A portion of a building located totally below, or partly below and partly above grade, where the vertical distance from grade to the floor below is greater than the vertical distance from grade to ceiling.

BATTERY ENERGY STORAGE SYSTEMS (BESS)
A rechargeable electrical system that allows storage and disbursement of energy from nearby commercial-scale power generating systems or from the public utility electric grid for the primary purpose of disbursement back to the public utility electric grid.

A. **Nonparticipating Parcel.** Any parcel of property in the County that has not entered into an agreement such as a lease to host or otherwise be associated with a BESS.

B. **Safety Hazard.** This term shall mean as any condition which could reasonably be expected to create, cause, or compound the substantial likelihood that death, illness, or personal injury may occur to any member of the general public, included but not limited to, trespassers or emergency services personnel. Adherence by the facility owner/operator or occupants to industry standards for safeguarding against such risks shall be taken into consideration in determining whether a condition poses a safety hazard.

BED AND BREAKFAST ESTABLISHMENT
A use which is subordinate to the principal use of a single-family dwelling unit, and a use in which transient guests are provided a sleeping room and breakfast in return for payment.

BERM
A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual or audible screening purposes.

BOARD OR TOWNSHIP BOARD
Shall mean the Portsmouth Charter Township Board of Trustees.

BOARDING HOUSE
Also referred to as a lodging house, rooming house, fraternity house, sorority house or dormitory. A dwelling having one kitchen and used for the purpose of providing lodging, or lodging and meals, for pay or compensation of any kind on a weekly or longer basis to more than two (2) persons other than members of the family occupying such dwellings.

BUILDABLE AREA
The space on a lot remaining after the minimum open space requirements of this Ordinance have been satisfied.

BUILDING
Any structure which is constructed or erected, either temporary or permanent, having a roof intended to be impervious to weather, supported by columns, walls, or any other supports, which is used for the purpose of housing, storing, or enclosing persons, animals or personal property or conducting business activities or other similar uses. The definition includes tents, awnings, and vehicles situated on private property and serving in some way the function of a building, but not including screened enclosures not having a roof impervious to weather.

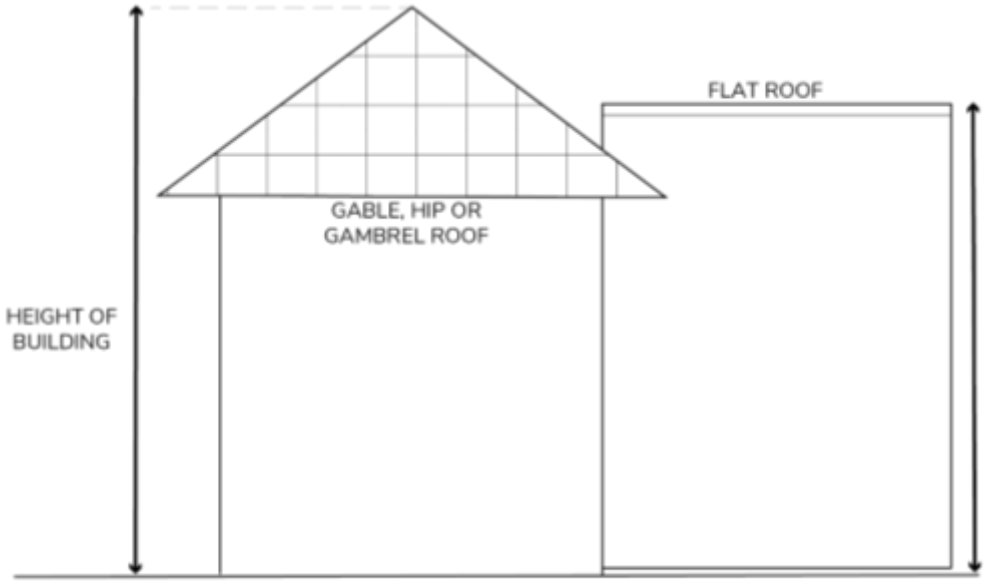
BUILDING HEIGHT
The vertical distance measured from the reference level to the highest point of the roof surface.

BUILDING INSPECTOR
The Building Inspector of Portsmouth Charter Township or his authorized representative.

BUILDING, MAIN OR PRINCIPAL
A building in which is conducted the principal or main use of the lot on which it is situated.

BUILDING, EXISTING
Any permanent building is considered to be in existence if completed or the foundations of which are complete and the construction of which is being carried out at the time this Ordinance takes effect.

BUILDING PERMIT
The written authority of the Building Inspector, issued on behalf of the Township, permitting the construction, moving or alteration of a building or structure in conformity with the provisions of this Ordinance and the Township's Building Code.



BUILDING SETBACK
The distance between the lot line, street right-of-way line, or other reference line established by the definition of Front Lot Line and the nearest point of any building or structure located on a lot or parcel.

BUILDING SETBACK LINE
The line situated at ground level being parallel to the street right-of-way line or property line or other reference line established by the provisions of the definition of Front Lot Line, which defines the actual distance of the nearest point of a building or structure from a street or property line.

BUILDING SETBACK LINE, MINIMUM
The line situated at ground level, parallel to the street right-of-way or property line or other reference line established by the provisions of the definition of Front Lot Line, which defines the area of a lot or parcel within which no part of a building or structure shall project or be located, except as otherwise provided by this Ordinance.

CAMP OR CAMPGROUND
Temporary or permanent buildings, tents, or other structures, together with their appurtenances pertaining thereto, established or maintained as temporary living quarters, operated continuously for a period of five (5) days or more for recreation, religious education, or vacation purposes.

CARPORT
Any roofed structure or shelter or a portion of a building open on two (2) or more sides which may or may not be attached to a dwelling, other than an attached or detached garage, used for the purpose of storing motor vehicles.

CAR WASH
See "Automobile Wash Establishment" as defined in this Chapter.

CERTIFICATE OF ZONING COMPLIANCE
A permit signifying compliance with the provisions of the Ordinance to a use, activity, bulk, and density and with the requirements of all other development codes and ordinances currently in effect.

CHILD CARE ORGANIZATION
A facility for the care of children under eighteen (18) years of age, as licensed and regulated by the State under Act No. 116 of the Public Acts of 1973 and the associated rules promulgated by the State Department of Social Services. Such organizations shall be further defined as follows:

A. **"Child Care Center" or "Day Care Center"** means a facility other than a private residence, receiving more than six (6) pre-school or school age children for group care for periods less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two (2) consecutive weeks,

regardless of the number of hours, described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. “Child Care Center” or “Day Care Center” does not include a Sunday School conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons re sponsible for such children are attending religious services.

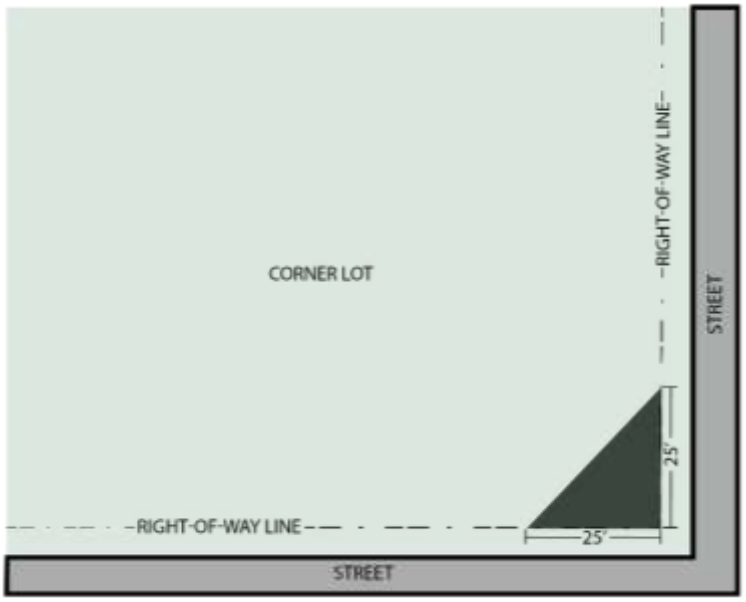
B. **“Foster Family Home”** is a private home in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent, or legal guardian.

C. **“Foster Family Group Home”** means a private home in which more than four (4) but less than seven (7) children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty-four (24) hours a day for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

D. **“Family Day Care Home”** means a private home in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.

E. **“Group Day Care Home”** means a private home in which more than six (6) but not more than twelve (12) children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.

CLEAR VISION CORNER
The triangle area formed by the intersection of the street right-of-way lines and a line connecting two points on located on those intersecting right-of-way lines twenty-five (25) feet from the point of intersection with the right-of-way lines.



COMMISSION OR PLANNING COMMISSION
The Planning Commission for Portsmouth Charter Township.

COMMON OPEN SPACE
Any area or space other than required yard areas which is unobstructed and unoccupied by buildings, roads, or other man-made structures and is readily accessible to all those for whom it is required.

COMPOSTING
Any process whatsoever by which organic matter is broken down into humus.

COMPOSTING FACILITY
Any use of land whereby organic matter is broken down into humus by any process whatsoever except a crop farming operation which spreads and discs-in grasses, leaves and/or other organic matter as a soil amendment.

COMPREHENSIVE PLAN, MASTER PLAN, GENERAL DEVELOPMENT PLAN, BASIC PLAN
The plan so designated by the Planning Commission which, among other things, conveys land use policy, a major street plan, and plan for public facilities and which is designed to provide and accomplish the objectives of Act 33 of the Public Acts of Michigan of 2008, as amended.

CONDOMINIUM
A form of ownership which includes a divided interest in a building and/or lot and an undivided interest in all other lands and improvements, which are maintained through an association of co-owners. This form of ownership is most often applied to multi-family residential uses; however, it can apply to single-family homes, commercial and industrial developments, boat slips, and many other land uses.

CONDOMINIUM ACT
Means Public Act 59 of 1978, as amended.

CONDOMINIUM DWELLING
Means the structure built upon a lot or condominium unit which is intended for residential purposes.

CONDOMINIUM PROJECT PLAN
Shall include all of the following as required in Section 66 of the Condominium Act as amended, being P.A. 59 of 1978:

A. Cover sheet.
B. A survey plan.
C. A flood plain if condominium lies within or abuts a flood plain area.
D. A site plan.
E. A utility plan.
F. A floor plan.
G. The size, location, area and horizontal boundaries of each condominium unit.
H. A number assigned to each condominium unit.
I. The vertical boundaries and volume of each unit comprised of enclosed air space.
J. Building section showing the existing and proposed structures and improvements, including their location on the land. Any proposed structure and improvement shown shall be labeled either a "must be built" or "need not be built" to the extent that a developer is contractually obligated to deliver utility conduits, buildings, sidewalks, driveways, landscaping and an access road, the same shall be shown and designated as "must be built", but the obligation to deliver such items exists whether or not they are shown and designated.
K. The nature, location, and approximate size of the common elements.

CONDOMINIUM UNIT
That portion of the condominium project designed and intended for separate ownership and use, as described in the Master Deed.

CONDOMINIUM COMMON ELEMENTS
The portion of the condominium project other than the condominium units.

CONDOMINIUM LIMITED COMMON ELEMENTS
The portion of the common elements reserved in the Master Deed for the exclusive use of less than all of the co-owners.

CONDOMINIUM LOT
For purposes of determining zoning compliance of condominiums, the term "lot" shall mean an individual condominium unit along with any limited common element or general common element as described to the unit.

CONDOMINIUM GENERAL COMMON ELEMENT
The common elements other than the limited common elements.

CONDOMINIUM; MOBILE HOME PROJECT
A condominium project in which mobile homes are intended to be located upon separate sites which constitute individual condominium units.

CONDOMINIUM MASTER DEED
Means the condominium document recording the condominium project, to which are attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.

CONDOMINIUM SUBDIVISION
Shall be a division of land on the basis of condominium partnership which is not subject to the provisions of the Subdivision Control Act, Public Act 288 of 1967, as amended.

CONDOMINIUM - MULTIPLE FAMILY CONDOMINIUM PROJECT
A building or portion thereof which contains two (2) or more dwelling units.

CONDOMINIUM - SINGLE FAMILY CONDOMINIUM PROJECT
A condominium project in which each dwelling unit constitutes a separate and unattached building.

CONVALESCENT HOME, NURSING HOME OR HOME FOR THE AGED
An institutional facility, other than a private home or facility defined in this Chapter, having as its principal function the provision of care, and supervision of individuals for twenty-four (24) hours a day and which are licensed under Article 17 of the Public Health Code, Act No. 368 of 1978 as amended.

DATA CENTER
A facility or designated area within a facility that contains networked computer servers and telecommunications hardware used to store, manage, process, and distribute digital data remotely.

DETENTION/RETENTION POND
A constructed depression in the ground that stores and releases stormwater runoff that is typically created at the request of the County Drain Commission.

DEVELOPER
Any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity commencing development.

DEVELOPMENT OR TO DEVELOP
A development includes the construction of any new buildings or other structures on a lot, the relocation of any existing buildings, or the use of a tract of land for any new uses. To develop is to create a development.

DIMENSIONAL NON-CONFORMITY
A non-conforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

DISH ANTENNAS
A parabolic type of antenna designed to receive radio, television, and microwave communication.

DISTRICT OR ZONE
A portion of the municipality under which certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance. The terms “zone” and “district” are considered synonymous.

DWELLING
Any building used in whole or in part as a home, residence or sleeping place, either permanently or temporarily, including mobile homes, one family, two family and multi-family buildings and boarding houses, but not including hotels, motels, tents, recreational vehicles or other unconventional structures.

A. **DWELLING – SINGLE FAMILY DETACHED**
A building which is entirely surrounded by open space on its building lot, used and designed for one (1) family or domestic unit only.

B. **DWELLING – MOBILE HOME**
A vehicular portable structure built on a permanent chassis which, in accordance with Section 6.03(6) of the National Manufactured Housing and Safety Standards Act of 1974, cannot be removed, and designed to be used without a permanent foundation as a dwelling when connected to required utilities and which is or is intended to be attached to the ground, to another structure, or to a utility system on the same premises for more than thirty(30) consecutive days; and which is registered with the State of Michigan, for which a certificate of title is granted, and, further, is constructed to the minimum standards as required by the Department of Housing and Urban Development.

C. **DWELLING – PRE-MANUFACTURED**
Pre-manufactured is an assembly of materials or products intended to comprise all or part of a building or structure, and that is assembled at other than the final location of the unit of the building or structure, by a repetitive process under circumstances intended to ensure uniformity of quality and material content. All pre-manufactured units shall be constructed to the minimum construction standards as promulgated by the State of Michigan , State Construction Codes for Pre-Manufactured Units, and shall have a certificate of compliance to those standards affixed to each unit as prescribed by state regulation or, in the alternative, be constructed to the minimum construction codes as adopted by the Township from time to time, prior to placement within the

Township unless a pre-manufactured unit meets the definition of a mobile home and is placed within the Township as a mobile home.

D. DWELLING – MULTIPLE FAMILY
A building used or designated as a residence for three (3) or more families or domestic units living independently of each other.

E. DWELLING – TWO (2) FAMILY OR DUPLEX
A detached building containing two (2) dwelling units and designed for use by two (2) families or domestic units living independently.

F. DWELLING – EARTH BERMED
A dwelling where the ground floor area is partly below grade to provide climatic noise or life safety protection, but is so designed not to include any portion of a basement in the floor area calculation.

G. DWELLING – EARTH SHELTERED
A dwelling where the ground floor area is partly below grade to provide climatic noise or life safety protection, but so designed to meet the requirements of the Township Building Code and may include all or part of a basement in the floor area calculation.

H. DWELLING UNIT
One (1) or more rooms designed or used as an independent housekeeping establishment for one family or domestic unit and containing kitchen facilities, including a stove or cooking device and a permanently installed sink, bathroom facilities, and sleeping facilities.

EASEMENT
A grant of a right to use land for specified purposes. It is a non-possessory interest in land granted for limited use purposes.

ERECTED
Includes built, constructed, reconstructed, moved upon, or any other physical operation on the premises required for the building. Excavation, fill, drainage, and the like, shall be considered part of erection.

ESSENTIAL SERVICES
The erection, construction, alteration, or maintenance, by public utilities, municipal departments or commissions, or private public utility contractors, of underground or overhead gas, electrical, steam or water transmissions, or distribution systems, collections, communication, supply, or disposal systems (including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, telephone exchange, gas regulatory stations, and other similar equipment and accessories in connection there within) reasonably necessary for the furnishing of

adequate service by such public utilities or municipal departments or commissions for the public health, safety, or general welfare. This definition shall not include sanitary landfills, recycling centers, or non-public utility transfer stations, or buildings not reasonably necessary to house the foregoing.

FAMILY OR DOMESTIC UNIT

A. An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, with not more than one (1) additional unrelated persons, who are domiciled together as a single domestic housekeeping unit in a dwelling unit; or

B. A collective number of individuals domiciled together in one (1) dwelling place whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single non-profit housekeeping unit. This definition shall not include any society, club fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other similar determinable period.

FARM

All contiguous land operated as a single unit on which farming is carried on directly by the owner or his agent or by a tenant farmer. For purposes of this Ordinance, farm uses include:

A. The cultivation of the soil for purposes of producing crops therefrom, including orchards.
B. The operation of green houses and nurseries.
C. The operation of poultry or livestock farms, except the keeping of fur bearing animals or game.
D. Equestrian facilities.
E. The following uses are, for the purposes of this Ordinance, specifically enumerated as non-farm uses:
    1. The keeping of fur bearing animals;
    2. Apiaries when not associated with and secondary to another bona fide farming operation;
    3. Fish hatcheries;
    4. Stockyards, slaughterhouses, and meat processing operations
    5. Milk pasteurization plants when not associated and secondary to a single farming operation;
    6. Stone quarries, gravel or sand pits;
    7. Stables; and
    8. Intensive livestock operations meaning any livestock operation if it involves confined feeding and or production.

FARM – SPECIALIZED

Any tract of land requiring a minimum of twenty (20) contiguous acres used for specialized animal and farm operations such as the keeping of fur bearing animals, fish hatcheries, apiaries or intensive livestock operations. Such farms may include related dwellings, customary barns, and similar buildings.

FARM BUILDINGS
A non-dwelling building or structure on a farm which is essential and customarily used on farms of that type for the purposes of their agricultural activities.

FARM MARKET
A year-or seasonal location where transactions and marketing activities between farm market operators and customers take place. A farm market may be a physical structure such as a building or tent, or simply an area where a transaction between a customer and a farmer is made. The farm market must be located on property owned or controlled by the producer of the products offered for sale at the market. In the previous five (5) year period, at least 50 percent of the farm products offered must be produced on the land by the affiliated farm measured by retail floor space during peak production season, or 50 percent of the average gross sales.

FENCE
Any permanent barrier, partition, or structure erected as a dividing structure or an enclosure, and not part of a structure requiring a building permit. Fence does not include retaining walls.

FILLING
The depositing or dumping of any matter onto, or into the ground, except common household gardening.

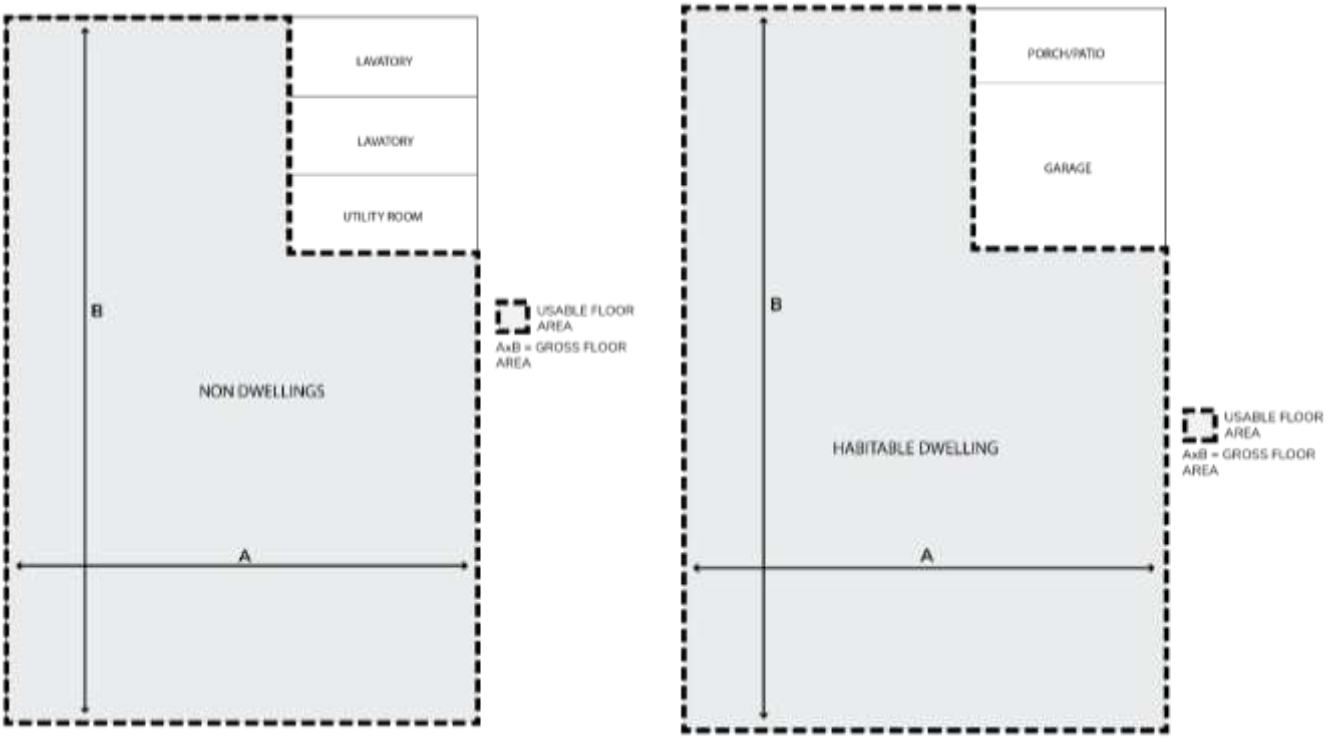
FLOOD PLAIN
Those areas which are subject to inundation at a high flood water level in a flood of one (1) percent yearly probability as determined by an engineer or agency designated by the Township Board.

FLOOD HAZARD AREA
That area subject to flooding on the average once in every hundred years based on information supplied by the U.S. Geological Survey or the Michigan Department of Natural Resources.

FLOOR AREA, USEABLE
A. **Non Dwellings.** The area of all floors in a building computed by measuring the dimensions of the outside walls of a building, excluding elevator shafts, stairwells, hallways, bulk heads, floor space used for basic utilities such as lavatories, and heating and cooling equipment, mezzanines, attics or portions thereof with headroom of less than seven (7) feet, verandas, porches, patios, carports, parking garages, terraces, atriums, and decks.

B. **Habitable Dwellings.** The area of all floors computed by measuring the dimensions of the outside walls of a building, excluding porches, patios, terraces, breezeways, carports, verandas, garages, basements, or portions thereof not meeting Township Building Code requirements for ingress and egress and attics or portions thereof with headroom of less than seven (7) feet.

FLOOR AREA, GROSS
The total area of all floors in a buildings computed by measuring the dimensions of the outside walls of a building,



GARAGE – PRIVATE
An accessory building or a portion of a main building used primarily for the storage of not more than three (3) vehicles, each for use of the occupants of the premises and not exceeding seven hundred and sixty-eight (768) square feet in area.

GARAGE – PUBLIC OR COMMERCIAL
Any building not a private garage, used for commercial parking, storing, caring for, renting, servicing, repairing, refinishing, equipping, adjusting for remuneration, hire or sale of any vehicle or for housing more than four (4) motor vehicles.

GARDEN MARKET
Refer to “Farm Market.”

GASOLINE SERVICE STATION
See "Automobile Service Station" as defined in this Chapter.

GRADE – AVERAGE GRADE
A reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, when the lot line is more than six (6) feet from the building, between the building and a point six (6) feet from the building.

GREENBELT (BUFFERSTRIP)
A natural or planted and landscaped area, located in the required front, side, and rear yard areas of developed parcels, consisting of trees, shrubs, bushes, grasses and other approved live vegetation and/or other approved material, required by the Township for utilitarian and aesthetic purposes, as provided for in Chapter Ten.

HOME OCCUPATION
Any use customarily conducted entirely within the dwelling unit and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of dwelling for dwelling purposes and does not change the character thereof. Provided further, that no article or service is sold or offered for sale on the premises, except such as is produced by such occupation; that such occupation shall not require internal or external alterations or construction features, equipment, machinery or outdoor storage or signs not customary in residential areas.

JUNK YARD, SALVAGE YARD
A place where junk, waste, discarded, salvaged, or salvageable materials are bought, sold, exchanged, stored, bailed, packed, disassembled, or handled, including but not limited to wrecked motor vehicles, used building materials and equipment, and other manufactured goods that are worn, deteriorated, or obsolete.

KENNEL
Any place on which five (5) or more dogs, cats, or other household pets, of any combination thereof, four (4) months of age or older are kept, either temporarily or permanently, for any reason other than veterinary medicine, including board, breeding, or sale.

LOT
A plot or parcel of land having a minimum of forty (40) feet of frontage and access upon a public street or approved private street, whether or not the plot or parcel is part of a recorded plat.

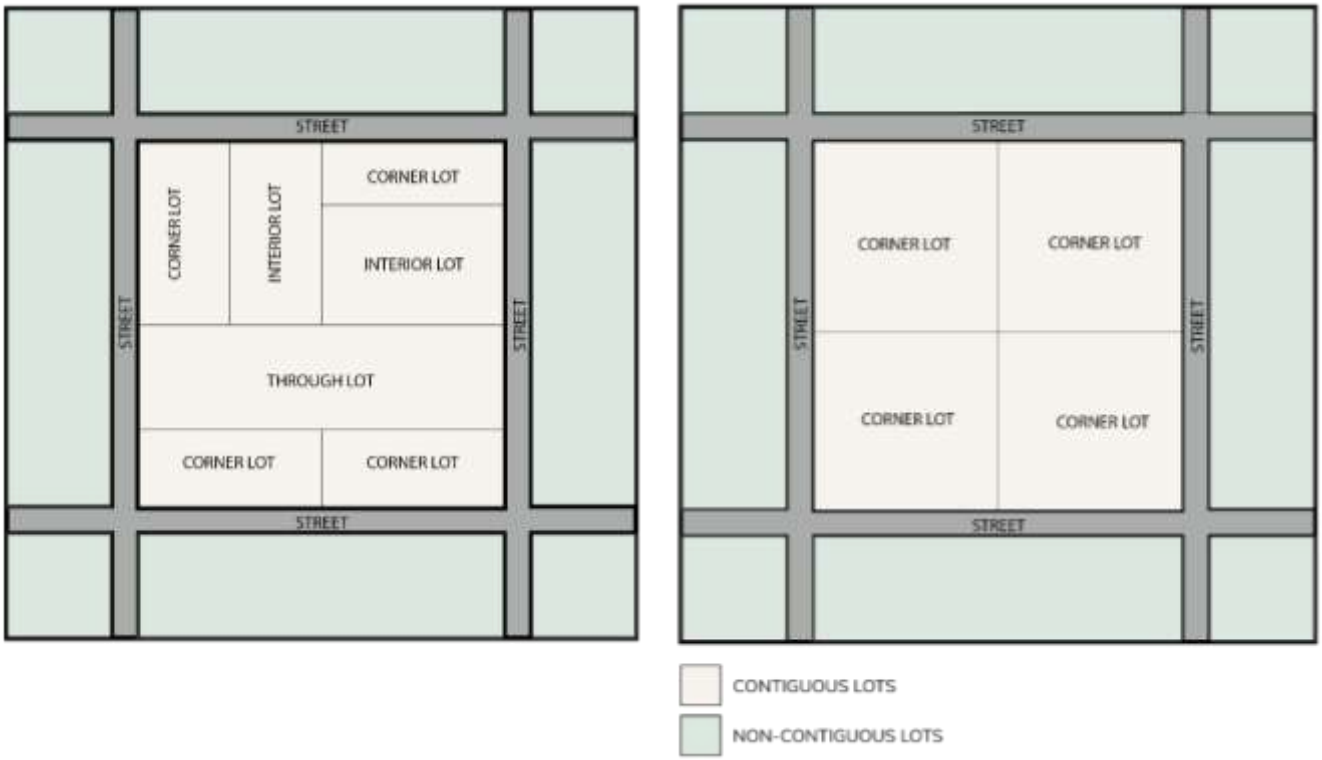
A. **Corner Lot.** A corner lot shall mean a lot of which the entirety of at least two (2) adjacent sides abut a street, provided that the interior angle at the intersection of such two (2) sides is less than

one hundred thirty-five (135) degrees. The front yard requirements shall be maintained for each street frontage.

B. **Interior Lot.** A lot other than a corner lot which, with the exception of a "through lot," has only one (1) lot line fronting on a street.

C. **Through Lot.** A lot having frontage on two (2) streets that do not intersect .

D. **Contiguous Lot.** Lots which are abutting.



LOT AREA
The total area encompassed within the lines of a lot, excluding street or road rights-of-way. Lot area computation shall not include a private road or easement providing access to the lot or other lots nor a storm water retention or detention easement located on the lots.

LOT COVERAGE
That area of a lot that is covered by all buildings and structures located thereon. This shall be deemed to include all porches, arbors, breezeways, balconies, patio roofs and any other structure or building, whether open, box type or lathe roofs, or fully roofed, but shall not be deemed to include fences, walls, hedges used as fences, or swimming pools.

LOT DEPTH
The average length of both side lot lines.

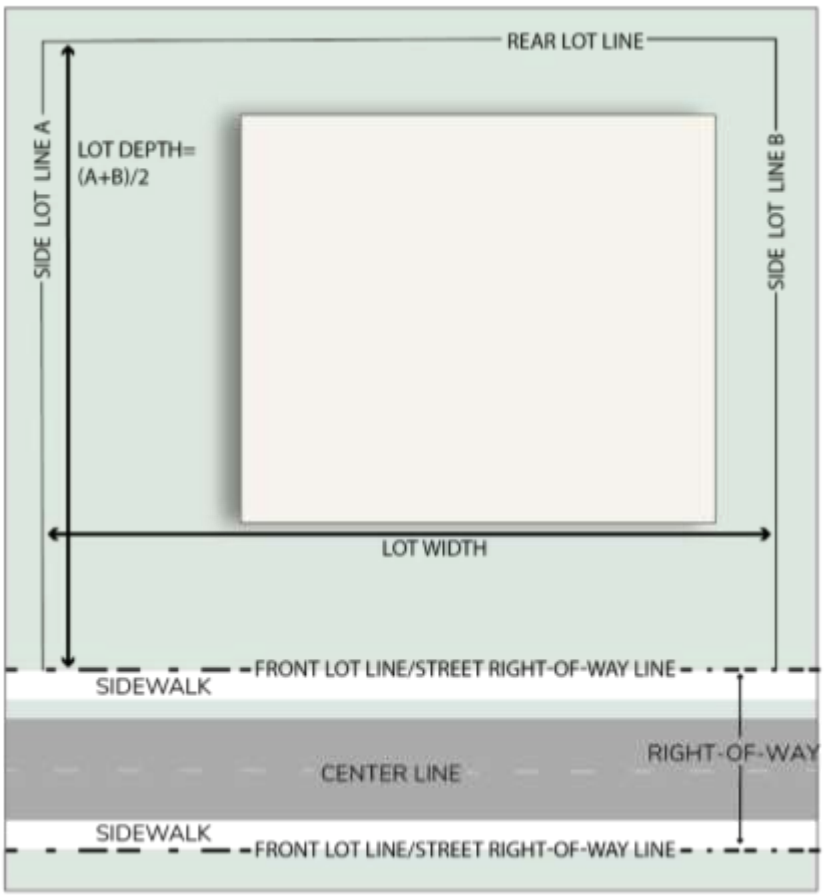
LOT LINE

A. **Front Lot Line.** In the case of a lot abutting only one (1) street, shall mean the line separating such lot from the street right-of-way; in case of a through lot or a corner lot, and lot line adjacent to a right-of-way shall be considered a front lot line.

B. **Rear Lot Line (Interior Lots).** That lot line which is opposite and most distant from the front lot line. The rear lot line in any irregular or triangular lot, for the purpose of this Ordinance, shall be a line entirely within the lot, at least ten (10) feet long and generally parallel to and most distant from the front lot line.

C. **Rear Lot Line (Corner Lots).** In the case of residential corner lots, the building inspector shall, at the time of application for a building permit on the principal building, designate a lot line opposite one (1) of the two (2) front lines, which shall thenceforth be considered the rear lot line, and the remaining lot line, also being opposite a front lot line, shall thence forth be considered a side yard line. In the case of non-residential corner lots, the Planning Commission shall make such determination and designation prior to final site plan approval.

D. **Side Lot Line.** Any lot line not a front line nor a rear lot line.



LOT OF RECORD
A tract of land which is part of a subdivision shown on a plat or map which has been recorded in the Office of the Register of Deeds for Bay County, Michigan, prior to the effective date of this Ordinance; or a tract of land described by metes and bounds which is the subject of a deed or land contract recorded at the Office of the Register of Deeds prior to the effective date of this Ordinance.

LOT WIDTH
The horizontal distance between the side lot lines, measured at the two points where the building line, or setback, intersects the side lot lines. The minimum lot width for a lot on a cul-de-sac or other irregularly shaped lot shall be measured at the building setback line and shall be measured between the building setback line and the rear lot line. Such lots shall have a front lot line of at least forty (40) feet and in no case shall the lot width within the required front yard be less than forty (40) feet.

MEZZANINE
An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than thirty-three (33) percent of the floor area of the story in which the level or levels are located.

MINI-STORAGE RENTAL BUILDINGS OR USES
A building or group of buildings are used or intended to be used for the housing of residential or recreational accessory items when leased to an individual or a number of individuals by a single owner. It is not intended nor will it be allowed that commercial or industrial warehousing or storage be permitted, nor shall perishable items, toxic or hazardous chemicals, or agricultural chemicals or supplies be permitted to be stored in mini-storage units. No exterior storage of any items will be allowed, with the exception of recreational vehicles, including boats and trailers, when such use is specifically approved as part of the special use permit. All units shall be completely enclosed, and no dwelling, living, repairs, or work shall be allowed in any of these units.

MOBILE HOME
See “Dwelling-Mobile Home” as defined in this Chapter.

MOBILE HOME PARK
Mobile home park means a parcel or tract of land under the control of a person upon which two (2) or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a mobile home and which is not intended for use as a temporary trailer park in accordance with the Mobile Home Commission Act, Act 419 of Michigan Public acts of 1976, as amended.

MOBILE HOME SUBDIVISION
A mobile home park except that the mobile home lots are subdivided, surveyed, recorded, and sold in accordance with Michigan Act 419 of Michigan Public Acts of 1976, as amended.

MODULAR HOME
See "Dwelling – Pre-manufactured" as defined in this Chapter.

MOTEL
A building or group of buildings providing transient accommodations with motor vehicle parking contiguous to the building. The term "motel", shall include: drive-in hotel, tourist court, motor hotel, tourist room, motor court, tourist cabin, motor inn, motor lodge, or transient cabin. For the purpose of this Ordinance, "Motel" and "Hotel" are considered synonymous.

NON-CONFORMING CURB CUT OR DRIVEWAY
An existing curb cut or driveway providing access to a lot or parcel from a public or private street which at the time of the effective date of this Ordinance does not meet the minimum spacing and/or design requirements applicable to the district in which it is located.

NON-CONFORMING LOT
A lot existing at the effective date of this Ordinance (and not created for the purpose of evading the restrictions of this Ordinance) that does not meet the minimum area requirement of the district in which the lot is located.

NON-CONFORMING PROJECT
Any structure, development, or undertaking that is incomplete at the effective date of this Ordinance and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

NON-CONFORMING SIGN
A sign that does not conform to one or more of the regulations set forth in this Ordinance.

NON-CONFORMING USE
A non-conforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a non-conforming use.) The term also refers to the activity that constitutes that use made of the property. (For example, all the area associated with running a bakery in a residential zone is a non-conforming use.)

NON-CONFORMING SITUATION
A situation that occurs when, on the effective date of this Ordinance, an existing lot, structure, or curb cut, or use of an existing lot or structure or curb cut, does not conform to one or more of the regulations applicable to the district in which the lot, curb cut, or structure is located. Among other

possibilities, a non-conforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this Ordinance, or because land or buildings are used for purposes made unlawful by this Ordinance.

NURSERY (PLANT MATERIAL)
A space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for wholesale or retail sale including products used for gardening or landscaping. The definition of nursery within the meaning of this Ordinance does not include any space, building, or structure used for the sale of fruits, vegetables or Christmas trees.

OCCUPIED
The use of a building or structure by one or more persons for its intended purpose, including habitation, business operations, or other lawful activity, on a regular or recurring basis, as distinguished from vacant or abandoned conditions.

OPEN AIR BUSINESS
Includes uses operated for profit substantially in the open air including:

A. Bicycle, utility truck or trailer, motor vehicle, boat, or home equipment sale, repair or rental services.
B. Outdoor display and sale of garages, motor homes, mobile homes, snowmobiles, farm implements, swimming pools, and similar activities.
C. Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, top soil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
D. Outdoor recreational establishments consisting of uses for activities such as tennis courts, archery courts, shuffleboard, horseshoe courts, rifle ranges, miniature golf, golf driving ranges, amusement parks, or similar recreational uses (transient or permanent.)

PARKING AREA
An off-street open area for the parking of motor vehicles for a fee or as an accommodation of clients, customers, residents, visitors, occupants, or the general public. Parking area shall include access drives within the actual parking area.

PERSON
A legal entity or individual human being, including a firm, association, co-partnership, partnership, corporation, society, or organization.

PLOT PLAN
Drawings and documents depicting and explaining all salient features of a proposed development which requires a zoning permit, but is not required to prepare a site plan, in order to evaluate compliance with Zoning Ordinance standards and requirements.

POND
An outdoor body of standing water, accumulated in an artificially constructed basin or depression in the earth, either above or below or partly above or partly below grade, capable of holding water in a depth of greater than two (2) feet when filled to capacity.

PORCH – ENCLOSED
A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

PORCH – OPEN
A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

PRIMARY COUNTY ROAD
A main traffic artery as designed by the Bay County Road Commission.

PUBLIC UTILITY
Any person, firm, corporation, or governmental department, board, or commission duly authorized under township, state, or federal regulations to furnish electricity, gas, steam, communications, transportation, water, wastewater removal, or similar essential services to the public; provided, however, that those persons involved in the reception or transmission of radio or television signals shall not be considered a public utility.

RECREATION CENTER
Either buildings or facilities, or both, owned by either a profit or non-profit corporation, association, or person, which are available for use by the general public or on a membership basis. Uses and activities shall include only the following: theaters; exercise facilities; court games such as tennis, paddle ball, handball, and volleyball; bowling alleys; archery; golf driving ranges; ice arenas; pool and billiards; ping-pong; swimming pools; roller skating rinks; and restaurants and taverns when designed as an integral part of the facility and incidental to one (1) or more of the other permitted uses.

RECREATION VEHICLE
A vehicle primarily designed as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle, in accordance with Act 49, Michigan Public Acts of 1975, as amended. Recreation vehicles include travel trailers, motor homes, pickup campers, tent trailers, off road vehicles, house car, house trailer, trailer home, trailer coach or other portable unit.

RECREATION VEHICLE PARK
An area on which space is rented for recreational vehicles, as herein defined, on a temporary basis according to the provisions of Act 243, Public Acts of 1975, as amended, and the provisions of this Ordinance.

RESTAURANT
A public eating place where food is prepared and sold for immediate consumption.

SIGNS – Including all sign related definitions.
A sign shall mean any structure, as hereinafter further specifically defined, which generally attempts to convey information or advertising to the general public.

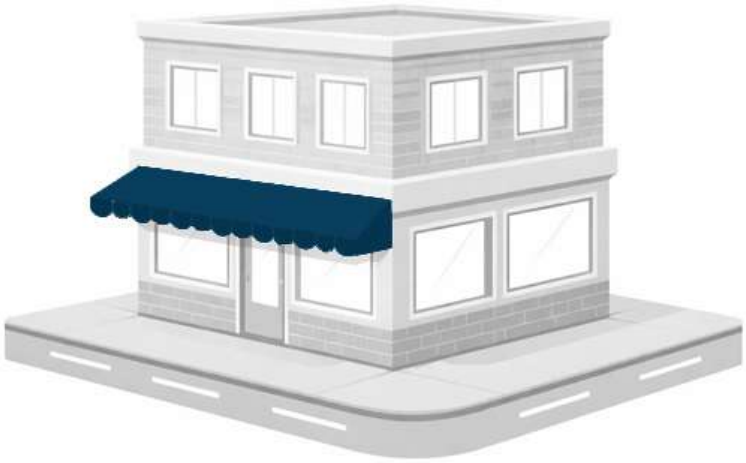
ABANDONED SIGN
A sign which no longer identifies or advertises a currently operating business, lessee, service, owner, product, or activity, and/or for which no legal owner can be found.

ADVERTISING DISPLAY AREA
The advertising display surface area (copy area) encompassed within any regular geometric figure which would enclose all or part of the sign. The structural supports for a sign, whether they be columns, pylons, or a building, or a part thereof, shall not be included in the advertising area.

AIR-FILLED OR GAS-FILLED BALLOON SIGN
A sign which is made of a nonporous bag of tough light material filled with heated air or a gas lighter than air used to convey advertising copy or announce a special event on a temporary basis.

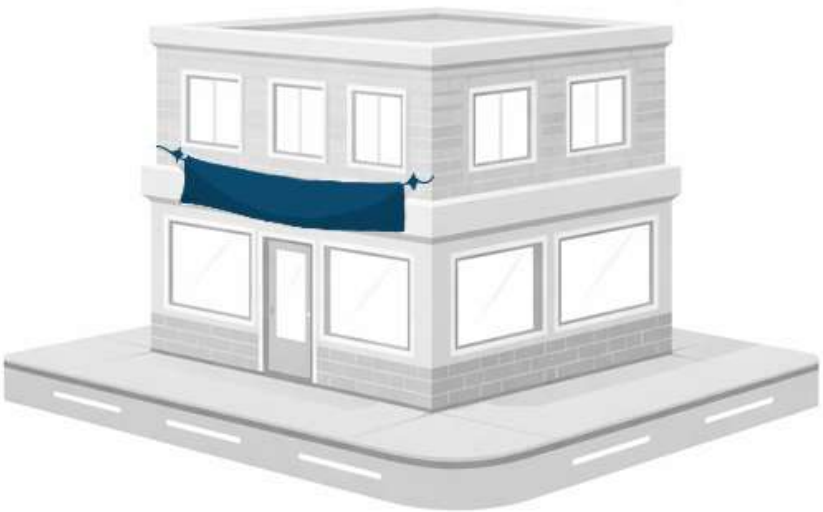
ANIMATED SIGN
A sign which uses movement or changes of lighting to depict action or to create a special effect or scene. (Compare with “Flashing Sign”).

AWNING
A shelter projecting from and supported by the exterior wall of a building constructed of nonrigid materials on a supporting framework. (Compare with "Marquee").



AWNING/CANOPY SIGN
Letters, numerals or other drawings painted on, printed on, or attached flat against the surface of an awning/canopy.

BANNER SIGN
A sign intended to be hung either with or without frames, possessing characters, letters, illustrations, or ornamentation applied to paper, plastic, or fabric or any kind. National flags, flags or political subdivisions, symbolic flags of any institution or business and seasonal decorations that do not contain any advertising copy placed on light or utility poles shall not be considered banners for the purpose of this Chapter.



BEACON
Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zoning lot as the light source; also, any light with one or more beams that rotate or move.

BENCH SIGN
A sign located on any part of the surface of a bench or seat placed on or adjacent to a right-of-way.

BILLBOARD
A sign which advertises an establishment, service, merchandise, use, entertainment, activity, product or message which is not conducted, sold, produced, manufactured or furnished upon the parcel or lot where the sign is located.

CHANGEABLE COPY SIGN
A sign upon which a display or message can be changed once a day by physical replacement of the display or message or electronic change of the message not more than once per 24 hours.

CLEARANCE (OF A SIGN)
The smallest vertical distance between the grade of the adjacent street or street curb and the lowest point of any sign, including framework and establishments, extending over that grade.

COPY
The wording on a sign surface in either permanent or removable letter form.

ELECTRONIC MESSAGE BOARD
Video terminal or electronic changeable copy sign in which the copy or animation consists of an array of lights activated and deactivated simultaneously.

FAÇADE
The entire building front including the parapet.

FACE OF SIGN
The area of a sign on which the copy or display is placed.

FESTOONS
A string of ribbons, tinsel, flags, pennants or pinwheels.

FLAG
Any fabric, banner, or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government or political subdivision.

FLASHING SIGN
A sign which contains an intermittent or sequential flashing light source used to attract attention. This does not include changeable copy signs, animated signs, as defined in this Chapter, or signs which through reflection or other means, create an illusion of flashing of intermittent light. (Compare with “Animated Sign” and “Changeable Copy Sign”).

FREESTANDING SIGN
A sign supported by one or more uprights, braces, pylons, or foundation elements located in or upon the ground and not attached to a building.

HEIGHT (OF A SIGN)
The vertical distance measured from the highest point of the sign, including any decorative embellishments, to the grade of the adjacent street or the surface grade beneath the sign, whichever ground elevation is less (Compare with “Clearance”).

ILLEGAL SIGN
A sign which does not meet the requirements of Chapter Eleven, and which has not received legal nonconforming status.

ILLUMINATED SIGN
A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

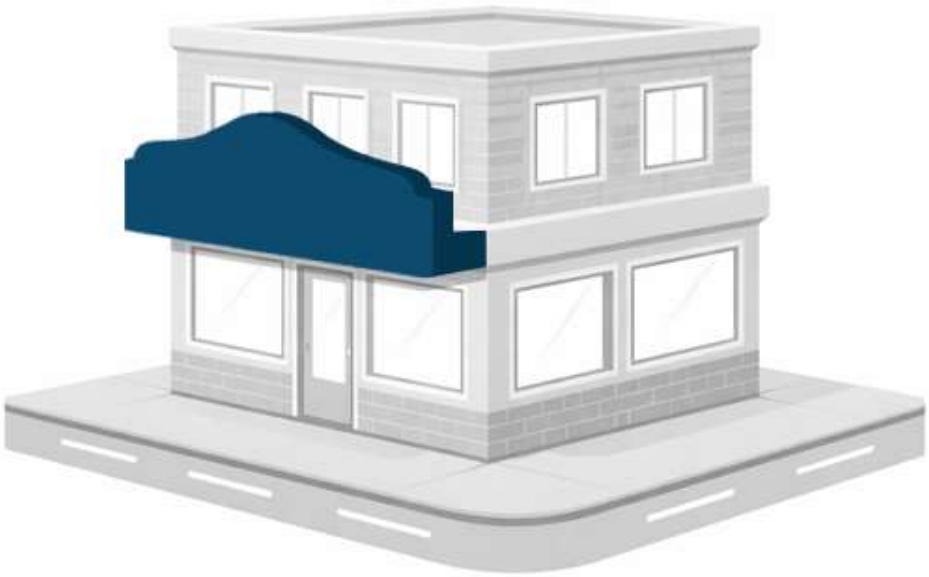
LOT
A plot or parcel of land having frontage and access upon a public street or approved private street whether or not the plot or parcel is part of a recorded plat.

MAINTENANCE
The cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.

MANSARD
A sloped roof or roof-like façade architecturally comparable to a building wall.

MARQUEE
A permanent roof-like structure or canopy of rigid materials supported by and extending from the façade of a building. (Compare with “Awning”).

MARQUEE SIGN
A sign attached to or supported by a marquee structure.



MONUMENT SIGN
A decorative Freestanding Sign where the base of the sign structure is permanently in the ground or integrated into landscaping or other solid structural features.

NAMEPLATE
A non-electric on-premise sign giving only the name, address, and/or occupation of an occupant or group of occupants.

NONCONFORMING SIGN
A sign which was legally erected prior to this Ordinance, but which does not conform to this Chapter.

OCCUPANCY
The portion of a building or premises owned, leased, rented, or otherwise occupied for a given use.

OFF-PREMISE SIGN
Another word for a billboard.

ON-PREMISE SIGN
A sign which pertains to the use of the premises on which it is located.

PAINTED WALL SIGN
A sign which is applied with paint or similar substance on the face of a wall.

PARAPET
The extension of a false front or wall above a roofline.

PENNANT
Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

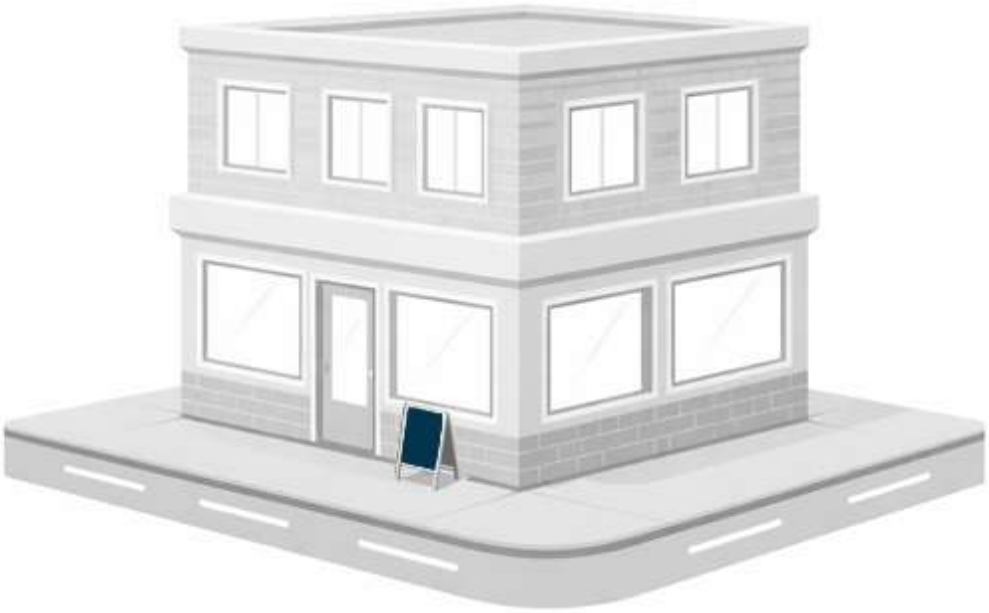
PERMANENT SIGN
A sign which is permanently affixed into the ground or a building and meets the requirements of a structure under the ICC Building Code or its successor code.

PERSON
An individual, corporation, association, firm, partnership, company or organization, singular or plural, of any kind.

POLE COVER
A material which encloses or decorates a pole or other structural support of a sign.

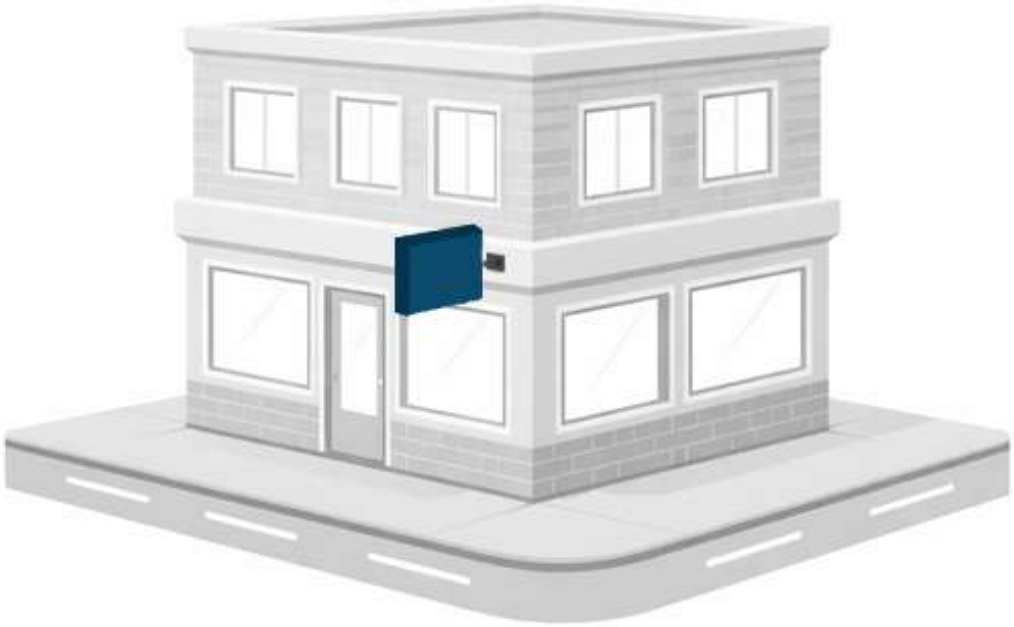
PORTABLE SIGN

A reusable and movable sign not permanently affixed in the ground, a structure or building.



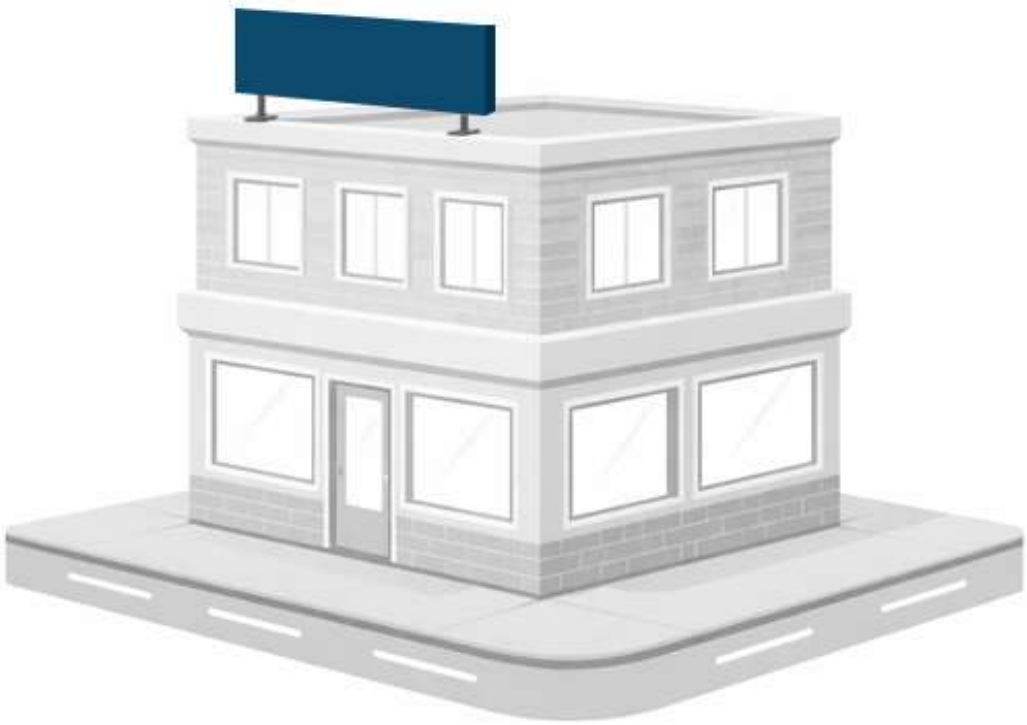
PROJECTING SIGN

A sign which is attached to and from a wall or other structure not specifically designed to support the sign.



ROOFLINE
The top edge of a roof or building parapet, whichever is higher, excluding any cupola, pylons, chimneys, or minor projections.

ROOF SIGN
A sign erected or constructed wholly upon or over the roof of a building and supported on the roof structure.



ROTATING SIGN
A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.

SETBACK
The distance from the property line or right-of-way line, whichever is more restrictive, to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line or right-of-way line.

SIGN
A structure which includes the name, identification, image, description, display or illustration which is affixed to, painted or represented directly or indirectly upon a building, structure or parcel of land, and which directs attention to an object, product, place, activity, facility, service, event, attraction, person, institution, organization or business, and which is visible from any

street, right of way, sidewalk, alley, park or other public property. This definition includes the base, frame, and support members of the sign. Customary displays of merchandise or objects and material within an enclosed building or placed behind a store window are not signs. A sign shall not include any display of official court or public office notices nor shall it include the flag of a political unit or school. Types of signs, as defined herein are depicted below.

SIGN AREA
The area shall be measured within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of the advertising message, together with any frame or other material or color forming an integral part of the display, message, drawing or similar device, or used to differentiate same from the background against which it is placed, excluding the necessary supports, braces or uprights of the sign.

Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of a sign, except that where two (2) faces are placed back-to-back and are at no point more than two (2) feet from one another, the area of the sign shall be deemed to be only the area of one face, or if faces are of different sizes, the area of the larger face.

Pole covers and other embellishments shall not be included in the area of measurement if they do not bear advertising copy or colors, patterns, logos that are a trademark or reasonably recognizable identification for the commercial establishment and/or sign owner.

SIGN OWNER
A person who owns a sign is the sign owner. The owner of the premises upon which a sign is located is presumed to be the owner of the sign, unless facts showing that someone else is the owner are submitted to the Zoning Administrator.

SNIPE SIGN
A sign that is attached to a utility pole, tree, fence, or any object located or situated on public or private property which conveys a commercial message.

STREET BANNER SIGN
A sign which is stretched across and hung over a right-of-way.

STREET FRONTAGE
The distance for which a lot line of a zone lot adjoins a public street, from one lot line intersecting said street to the furthest distance lot line intersecting the same street.

TEMPORARY SIGN
Any sign that is used only temporarily and is not permanently mounted which is to be in place for a period of time not to exceed one (1) year.

UNDER-CANOPY SIGN
A sign suspended beneath a canopy, ceiling, roof, or marquee.

USE
Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

VEHICLE SIGN
A sign painted on, incorporated in, or attached directly to any mode of transportation, including but not limited to automobiles, trucks, boats or airplanes.

WALL SIGN
A sign painted, individual letter, and cabinet signs, and signs on a mansard which are attached parallel to and extending not more than fifteen (15) inches from the wall of a building.

WINDOW SIGN
A sign placed inside or upon a window facing the outside which is intended to be seen from the right-of-way or the outdoors.

SETBACK
See “Building Setback” as defined in this Chapter.

SITE PLAN
A reproducible scale drawing which shows the location and dimensions of all intended and existing buildings, structures, parking, loading facilities, streets, driveways, buildings, planting, landscaping, yard spaces, sidewalks, signs, drainage facilities, water supply, sewage systems and any other items that may be required by Chapter fifteen of this Ordinance.

SOIL REMOVAL
Removal of any kind of soil or earth matter, including topsoil, sand, gravel, clay, rock or similar materials to a depth not greater than twelve (12) inches, except common household gardening and general farm care.

SPECIAL USE
A special procedure wherein certain uses may be permitted after review when the effect of such uses on adjoining lands and the general welfare of the Township may require special consideration and often also conditional regulations to ensure compatibility and proper development in accordance with the intent of this Ordinance.

SPECIFIED ANATOMICAL AREA
This shall refer to the following:

A. Less than completely and opaquely covered:
   1. Human genitals, pubic region or pubic hair; or
   2. Perineum, buttock or anus; or
   3. Female breast below a point immediately above the top of the areola.

B. Human male genitals in a discernible erect or turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES
This shall refer to the following:

A. Human genitals in a discernible state of sexual stimulation or arousal.

B. Acts or representations of human masturbation, sexual intercourse, sodomy, or bestiality, excretory functions, sadism, masochism, lewd exhibition or genitals.

C. Fondling or other erotic touching of human genitals, pubic region or pubic hair, perineum, buttock or anus or female breast.

STABLE – PRIVATE
A building or group of buildings used or to be used for the housing of horses or other domestic animals owned by an individual for the use of himself and his immediate family. A minimum of five acres (5) is required for a private stable. In order to maintain a private stable, the owner of the property must have five (5) acres for the first horse and an additional one (1) acre for each horse or other domestic animal owned thereafter. In order to house more than fifteen (15) horses or other domestic animals, the owner must comply with all requirements for a public stable. Domestic animals include, but are not limited to horses, goats, cows, pigs, or other similarly domesticated farm animals, excluding dogs and cats which can be regulated as a kennel.

STABLE – PUBLIC
A building used for housing horses or other domestic animals for commercial enterprise.

STORY
That portion of a building, other than a cellar or mezzanine, included between the surface of any floor and the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

A. A "Mezzanine" shall be deemed a full story when it covers more than fifty (50) percent of the area of the story underneath said mezzanine, or, if the vertical distance from the floor next below it to the floor next above it is twenty-four (24) feet or more.

B. For the purpose of this Ordinance, a basement or cellar shall be counted as a story if over fifty (50) percent of its height is above the level from which the height of the building is measured, or, if it is used for business purposes, or, if it is used for dwelling purposes by other than a janitor or domestic servants employed in the same building including the family of the same.

STORY – HALF
The part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half (1/2) the floor area of said full story.

STREET
A. **Public Street.** A publicly controlled right-of-way which affords the principal means of access to abutting property, including an avenue, place, way, drive, lane, boulevard, highway, road, or other thoroughfare.

B. **Private Street**. A privately owned and maintained permanent, unobstructed easement which provides direct access to more than one (1) legally described parcel and for which a permit has been issued in accordance with this Ordinance.

STREET RIGHT-OF-WAY
A general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to transportation purposes which has been dedicated for public use or reserved as an approved private street.

STRUCTURE
Any constructed, erected, or placed materials or combination of materials with a fixed location above, on, or below the ground, or attachment to something having such a location, including buildings, signs, billboards, light posts, utility poles, radio and television antennas, swimming pools, gazebos, tennis courts, sheds, and storage bins; but not excluding fences, sidewalks, driveways, and streets.

SWIMMING POOL
An artificially constructed basin for the holding of water for swimming and aquatic recreation and does not include any plastic, canvas, or rubber portable pools temporarily erected upon the ground with less than two (2) feet of water.

THEATER
Any building or place used for presentation of dramatic spectacles, shows, movies, or other entertainment, open to the public, with or without charge.

USE
Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

A. **Accessory Use.** A use of a structure or premises which is customarily incidental and subordinate to the principal use of the structure or premises. (see Principal Use)

B. **Permitted by Right.** A use or uses which, by their very nature, are allowed within the specified Zoning District, provided all applicable regulations of the Township are met. Permitted use includes the principal use of the land or structure, as well as accessory uses unless specifically stated to the contrary.

C. **Principal Use.** The primary purpose for which the land or a structure or building is used.

D. **Temporary Use.** A use or activity which is permitted only for a limited time and subject to specific regulations and permitting procedures.

WASTE DUMPSTER
A container used for the temporary storage of rubbish and/or materials to be recycled pending collection, having capacity of at least one (1) cubic yard.

YARD
An open space of prescribed width or depth on the same land with a building or group of buildings, which open space lies between the building or group of buildings, and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein. This regulation shall not exclude eaves, provided that an eight (8) foot height clearance is provided above the adjacent ground level.

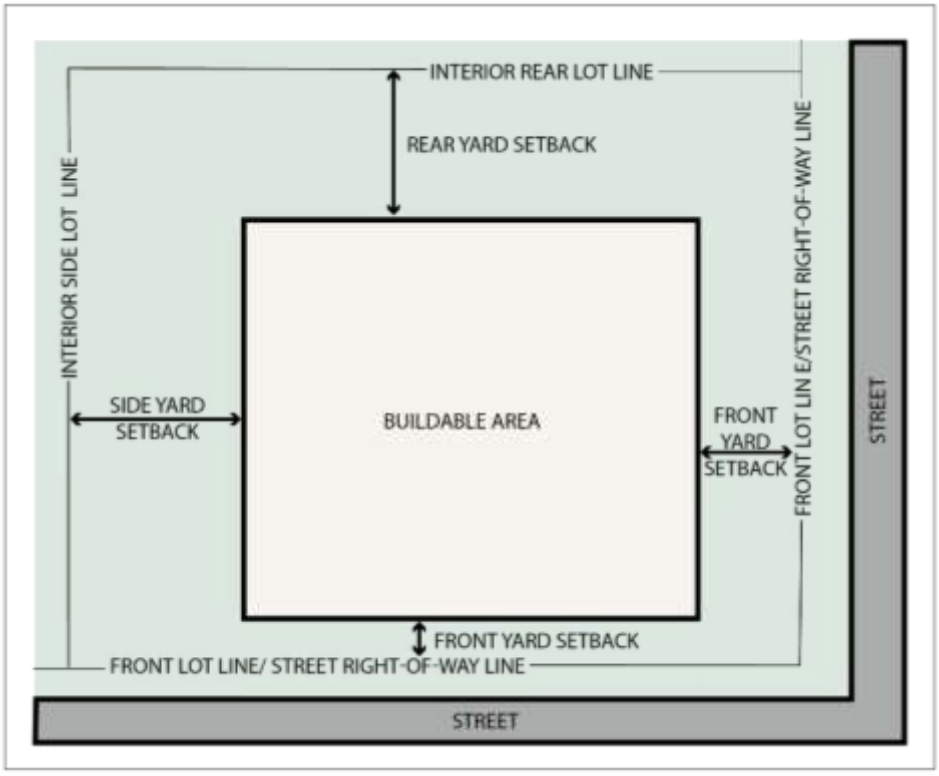
Measurement of the front and side yards shall be from the right-of-way line of the abutting street, whether public or private, to the nearest portion of the structure, including unenclosed porches, provided, that on streets with a right-of-way of less than thirty-three (33) feet from the centerline, measurement shall be from a point thirty-three (33) feet from the centerline of the street.

When the lot abuts or contains all or a portion of an easement designated for the purpose of storm water retention or detention, the required yards and setbacks shall be measured from the edge of the easement which shall be described in the legal description of the lot.

A. **Front Yard.** A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the main building.

B. **Rear Yard.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line, and the nearest line of the main building.

C. **Side Yard.** A yard between a main building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line to the nearest point of the main building.



ZONE
See "District" as defined in this Chapter.

ZONING BOARD OF APPEALS
Shall mean the Zoning Board of Appeals of Portsmouth Charter Township.

ZONING PERMITS
See "Certificate of Zoning Compliance" as defined in this Chapter.

CHAPTER SIXTEEN. MISCELLANEOUS PROVISIONS

SECTION 16.01 SEVERABILITY

The provisions of this Ordinance are severable and it is the intention of the Township Board to confer the whole or any part of the powers herein provided. If any of the provisions of this Ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of the court shall not affect or impair any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent of the Township Board that this Ordinance would have been adopted had such unconstitutional provisions not been included therein.

SECTION 16.02 CODIFICATION

It is the intention of the Township Board that the provisions of this Ordinance shall become and be made a part of a Portsmouth Township Development Code; and that sections of this Ordinance may be renumbered or relettered and the word “Ordinance” may such be changed to “section,” “article,” or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code is accomplished, sections of this Ordinance may be renumbered or relettered and typographical errors which do not affect the intent may be corrected by the Township Board without need of public hearing by filing a corrected or codified copy of same with the Township Clerk and publishing such changes in a newspaper of general distribution within the Township within fifteen (15) days of such authorization.

SECTION 16.03 ADMINISTRATIVE LIABILITY

No officer, agent, employee, or member of the Planning Commission, Township Board, or Zoning Board of Appeals shall render himself personally liable for any damage that may accrue to any person as a result of any act, decision, or other consequence or occurrence arising out of the discharge of his duties and responsibilities pursuant to this Ordinance.

SECTION 16.04 REPEAL

This former Zoning Ordinance of the Township, effective February 19, 1998, and all amendments thereto, are hereby repealed; provided, however, that the same shall remain in force for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of any penalty or liability thereunder. All other ordinances and parts of ordinances, or amendments thereto which are more restrictive than this Ordinance, are hereby repealed.

SECTION 16.05 EFFECTIVE DATE

This Ordinance is hereby declared to have been adopted by the Township Board of the Charter Township of Portsmouth, Bay County, Michigan at a public hearing held thereof, duly called and held on the 15th day of June, 2026, in order to be given publication in the manner prescribed by law and shall be given immediate effect.